

TITLES 1-91

Title 1 GENERAL PROVISIONS

Chapters

- 1.16 General definitions.
- 1.20 General provisions.

Chapter 1.16 GENERAL DEFINITIONS

Sections

- 1.16.050 "Legal holidays"

1.16.050 "Legal holidays". The following are legal holidays: Sunday; the first day of January, commonly called New Year's Day; the twelfth day of February, being the anniversary of the birth of Abraham Lincoln; the third Monday of February, being celebrated as the anniversary of the birth of George Washington; the thirtieth day of May, commonly known as Memorial Day; the fourth day of July, being the anniversary of the Declaration of Independence; the first Monday in September, to be known as Labor Day; the second Monday of October, to be known as Columbus Day; the eleventh day of November, to be known as Veterans' Day; the fourth Thursday in November, to be known as Thanksgiving Day; the twenty-fifth day of December, commonly called Christmas Day; the day on which any general election is held throughout the state; and any day designated by public proclamation of the chief executive of the state as a legal holiday.

If any of the above specified state legal holidays are also federal legal holidays but observed on different dates, only the state legal holidays shall be recognized as a paid legal holiday for employees of the state and its political subdivisions except that for port districts and the law enforcement and public transit employees of municipal corporations, either the federal or the state legal holiday, but in no case both, may be recognized as a paid legal holiday for employees.

Whenever any legal holiday, other than Sunday, falls upon a Sunday, the following Monday shall be a legal holiday. [1975 1st ex.s. c 194 § 1; 1973 2nd ex.s. c 1 § 1; 1969 c 11 § 1; 1955 c 20 § 1; 1927 c 51 § 1; RRS § 61. Prior: 1895 c 3 § 1; 1891 c 41 § 1; 1888 p 107 § 1.]

Effective date—1969 c 11: "The effective date of this act shall be January 1, 1971." [1969 c 11 § 2.] "this act" refers to the 1969 amendment to this section.

Court business on legal holidays: RCW 2.28.100, 2.28.110.

School holidays: RCW 28A.02.061.

Chapter 1.20 GENERAL PROVISIONS

Sections

- 1.20.090 State gem.

1.20.090 State gem. Petrified wood is hereby designated as the official gem of the state of Washington. [1975 c 8 § 1.]

Title 2 COURTS OF RECORD

Chapters

- 2.04 Supreme court.
- 2.06 Court of appeals.
- 2.08 Superior courts.
- 2.32 Court clerks, reporters, and bailiffs.
- 2.36 Juries.
- 2.48 State bar act.

Chapter 2.04 SUPREME COURT

Sections

- 2.04.090 Salary—Timely completion of opinions required.

2.04.090 Salary—Timely completion of opinions required. Each justice of the supreme court shall receive an annual salary of thirty-nine thousand four hundred twelve dollars, but no salary warrant shall be issued to any judge of the supreme court until he shall have made and filed with the state treasurer an affidavit that no matter referred to him for opinion or decision has been uncompleted or undecided by him for more than six months. [1975 1st ex.s. c 263 § 2; 1974 ex.s. c 149 § 3 (Initiative Measure No. 282); 1973 c 106 § 2; 1972 ex.s. c 100 § 1; 1965 ex.s. c 127 § 1; 1957 c 260 § 1; 1953 c 144 § 1. Prior: 1949 c 48 § 2, part; 1947 c 194 § 1, part; 1943 c 50 § 1, part; 1921 c 188 § 1, part; 1919 c 77 § 1, part; 1907 c 57 § 1, part; Rem. Supp. 1949 § 11053, part.]

Severability—1975 1st ex.s. c 263: See note following RCW 43.03.010.

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): See note following RCW 43.03.010.

Construction—1965 ex.s. c 127: "The salary increases provided for herein shall take effect at the earliest time allowable by the Constitution of the state of Washington, including Article II, section 13, Article II, section 25, Article IV, section 13, and Article XXVIII: *Provided*, That it is the intent of the legislature that nothing in this act shall render a member of the legislature or of the judiciary ineligible to file for and be elected to the legislature or the judiciary respectively." [1965 ex.s. c 127 § 5.] "this act" [1965 ex.s. c 127] is codified as RCW 2.04.090, 2.08.090, 43.03.010 and 44.04.080.

Construction—1953 c 144: "Nothing contained in this act shall affect the salary of any judge now in office during the term for which he was elected." [1953 c 144 § 3.] This applies to RCW 2.04.090 and 2.08.090.

Salaries of judicial officers: State Constitution Art. 4 §§ 13, 14; Art. 30 § 1.

Chapter 2.06 COURT OF APPEALS

Sections

2.06.060 Salaries—Timely completion of opinions required.

2.06.060 Salaries—Timely completion of opinions required. Each judge of the court shall receive an annual salary of thirty-six thousand three hundred twenty-five dollars, but no salary warrant shall be issued to any judge until he shall have made and filed with the state treasurer an affidavit that no matter referred to him for opinion or decision has been uncompleted by him for more than three months. [1975 1st ex.s. c 263 § 3; 1974 ex.s. c 149 § 4 (Initiative Measure No. 282); 1973 c 106 § 3; 1972 ex.s. c 100 § 2; 1969 ex.s. c 221 § 6.]

Severability—1975 1st ex.s. c 263: See note following RCW 43.03.010.

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): See note following RCW 43.03.010.

Chapter 2.08 SUPERIOR COURTS

Sections

2.08.063 Judges—Lincoln, Skagit, Walla Walla, Whitman, Yakima, Adams, and Whatcom counties.

2.08.090 Salary.

2.08.063 Judges—Lincoln, Skagit, Walla Walla, Whitman, Yakima, Adams, and Whatcom counties. There shall be in the county of Lincoln one judge of the superior court; in the county of Skagit, two judges of the superior court; in the county of Walla Walla, two judges of the superior court; in the county of Whitman, one judge of the superior court; in the county of Yakima five judges of the superior court; in the county of Adams, one judge of the superior court; in the county of Whatcom, three judges of the superior court. [1975 1st ex.s. c 49 § 1; 1973 1st ex.s. c 27 § 2; 1971 ex.s. c 83 § 1; 1963 c 48 § 3; 1955 c 19 § 1; 1951 c 125 § 5. Prior: 1949 c 237 §§ 2, 4; 1945 c 20 § 1, part; 1927 c 135 § 1, part; 1917 c 97 § 5, part; 1911 c 62 § 1; 1911 c 129 § 2, part; 1907 c 79 § 1, part; 1895 c 89 § 1, part; 1891 c 68 § 3, part; 1890 p 341 § 1, part; Rem. Supp. 1949 §§ 11045-lj, 11045-li; Rem. Supp. 1945 § 11045-ld, part; RRS § 11045-1, part.]

2.08.090 Salary. Each judge of the superior court shall receive an annual salary of thirty-four thousand two hundred fifty dollars. [1975 1st ex.s. c 263 § 4; 1974 ex.s. c 149 § 5 (Initiative Measure No. 282); 1972 ex.s. c 100 § 3; 1967 c 65 § 1; 1965 ex.s. c 127 § 2; 1957 c 260 § 2; 1953 c 144 § 2. Prior: 1949 c 48 § 2, part; 1947 c 194 § 1, part; 1943 c 50 § 1, part; 1923 c 169 § 1; 1921 c 188 § 1, part; 1919 c 77 § 1, part; 1907 c 57 § 1, part; Rem. Supp. 1949 § 11053, part.]

Severability—1975 1st ex.s. c 263: See note following RCW 43.03.010.

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): See note following RCW 43.03.010.

Construction—1965 ex.s. c 127: See note following RCW 2.04.090.

Salaries of judicial officers: State Constitution Art. 4 § 13.

Chapter 2.32 COURT CLERKS, REPORTERS, AND BAILIFFS

Sections

2.32.210 Salaries—Expenses.

2.32.240 Transcript of testimony—Fee—Forma pauperis.

2.32.210 Salaries—Expenses. Each official reporter shall be paid such compensation as shall be fixed, after recommendation by the judges of the judicial district involved, by the legislative authority of the county comprising said judicial district, or by the legislative authorities acting jointly where the judicial district is comprised of more than one county: *Provided*, That in judicial districts having a total population of forty thousand or more, the salary of an official court reporter shall not be less than sixteen thousand five hundred dollars per annum: *Provided further*, That in judicial districts having a total population of twenty-five thousand and under forty thousand, such salary shall not be less than eleven thousand one hundred dollars per annum.

Said compensation shall be paid out of the current expense fund of the county or counties where court is held.

In judicial districts comprising more than one county the council or commissioners thereof shall, on the first day of January of each year, or as soon thereafter as may be convenient, apportion the amount of the salary to be paid to the reporter by each county according and in proportion to the number of criminal and civil actions entered and commenced in superior court of the constituent counties in the preceding year. In addition to the salary above provided, in judicial districts comprising more than one county, the reporter shall receive his actual and necessary expenses of transportation and living expenses when he goes on official business to a county of his judicial district other than the county in which he resides, from the time he leaves his place of residence until he returns thereto, said expense to be paid by the county to which he travels. If one trip includes two or more counties, the expense may be apportioned between the counties visited in proportion to the amount of time spent in each county on the trip. If an official reporter uses his own automobile for the purpose of such transportation, he shall be paid therefor at the same rate per mile as county officials are paid for use of their private automobiles. The sworn statement of the official reporter, when certified to as correct by the judge presiding, shall be a sufficient voucher upon which the county auditor shall draw his warrant upon the treasurer of the county in favor of the official reporter.

The salaries of official court reporters shall be paid upon sworn statements, when certified as correct by the

judge presiding, as state and county officers are paid. [1975 1st ex.s. c 128 § 1; 1972 ex.s. c 18 § 1; 1969 c 95 § 1; 1967 c 20 § 1; 1965 ex.s. c 114 § 1; 1961 c 121 § 1; 1957 c 244 § 2; 1953 c 265 § 1; 1951 c 210 § 1. Prior: 1945 c 24 § 1; 1943 c 69 § 2; 1913 c 126 § 3; Rem. Supp. 1945 § 42-3.]

2.32.240 Transcript of testimony—Fee—Forma pauperis. (1) When a record has been taken in any cause as provided in RCW 2.32.180 through 2.32.320, if the court, or either party to the suit or action, or his attorney, request a transcript, the official reporter and clerk of the court shall make, or cause to be made, with reasonable diligence, full and accurate transcript of the testimony and other proceedings, which shall, when certified to as hereinafter provided, be filed with the clerk of the court where such trial is had for the use of the court or parties to the action. The fees of the reporter and clerk of the court for making such transcript shall be fixed in accordance with costs as allowed in cost bills in civil cases by the supreme court of the state of Washington, and when such transcript is ordered by any party to any suit or action, said fee shall be paid forthwith by the party ordering the same, and in all cases where a transcript is made as provided for under the provisions of RCW 2.32.180 through 2.32.320 the cost thereof shall be taxable as costs in the case, and shall be so taxed as other costs in the case are taxed: *Provided*, That when, from and after December 20, 1973, a party has been judicially determined to have a constitutional right to a transcript and to be unable by reason of poverty to pay for such transcript, the court may order said transcript to be made by the official reporter, which transcript fee therefor shall be paid by the state upon submission of appropriate vouchers to the clerk of the supreme court. [1975 1st ex.s. c 261 § 1; 1972 ex.s. c 111 § 1; 1970 ex.s. c 31 § 1; 1965 c 133 § 3; 1957 c 244 § 4; 1943 c 69 § 4; 1913 c 126 § 5; Rem Supp. 1943 § 42-5.]

Counsel—Right to—Fees: RCW 10.01.110.

"Folio" defined: RCW 1.16.040.

Indigent party—State to pay costs and fees incident to review by supreme court or court of appeals: RCW 4.88.330.

Chapter 2.36 JURIES

Sections

- 2.36.070 Qualification of jurors.
2.36.150 Compensation of jurors.

2.36.070 Qualification of jurors. No person shall be competent to serve as a juror in the superior courts of the state of Washington unless he be

- (1) an elector and taxpayer of the state,
- (2) a resident of the county in which he is called for service for more than one year preceding such time,
- (3) in full possession of his faculties and of sound mind: *Provided*, That a person shall not be precluded from the list of prospective jurors because of loss of sight in any degree. Sound mind, as used in this section,

shall mean the necessary mental process utilized in reasoning to a logical conclusion, and

(4) able to read and write the English language. [1975 1st ex.s. c 203 § 1; 1971 ex.s. c 292 § 3; 1911 c 57 § 1; RRS § 94. Prior: 1909 c 73 § 1.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

2.36.150 Compensation of jurors. Jurors shall receive for each day's attendance, besides mileage at thirteen cents per mile each way, the following compensation:

- (1) Grand jurors shall receive ten dollars;
- (2) Petit jurors shall receive ten dollars;
- (3) Coroner's jurors shall receive ten dollars;
- (4) Justice of the peace jurors shall receive ten dollars:

Provided, That a person excused from jury service at his own request shall be allowed not more than a per diem and such mileage, if any, as to the court shall seem just and equitable under all circumstances. [1975 1st ex.s. c 76 § 1; 1959 c 73 § 1; 1951 c 51 § 2; 1943 c 188 § 1; 1933 c 52 § 1; 1927 c 171 § 1; 1907 c 56 § 1, part; Rem. Supp. 1943 § 4229. Prior: 1903 c 151 § 1, part; 1893 p 421 § 1, part; Code 1881 § 2086, part.]

Travel expense in lieu of mileage in certain cases: RCW 2.40.030.

Chapter 2.48 STATE BAR ACT

Sections

- 2.48.200 Restrictions on practice by certain officers.

2.48.200 Restrictions on practice by certain officers. No person shall practice law who holds a commission as judge in any court of record, or as sheriff, coroner, or deputy sheriff; nor shall the clerk of the supreme court, the court of appeals, or of the superior court or any deputy thereof practice in the court of which he is clerk or deputy clerk: *Provided*, It shall be unlawful for a deputy prosecuting attorney, or for the employee, partner, or agent of a prosecuting attorney, or for an attorney occupying offices with a prosecuting attorney, to appear for an adverse interest in any proceeding in which a prosecuting attorney is appearing, or to appear in any suit, action or proceeding in which a prosecuting attorney is prohibited by law from appearing, but nothing herein shall prohibit a prosecuting attorney or a deputy prosecuting attorney from appearing in any action or proceeding for an interest divergent from that represented in the same action or proceeding by another attorney or special attorney in or for the same office, so long as such appearances are pursuant to the duties of prosecuting attorneys as set out in RCW 36.27.020 and such appearances are consistent with the code of professional responsibility or other code of ethics adopted by the Washington state supreme court, but nothing herein shall preclude a judge or justice of a court of this state from finishing any business by him undertaken in a court of the United States prior to his becoming a judge or justice. [1975 1st ex.s. c 19 § 3; 1971 c 81 § 13; 1921 c 126 § 5; RRS § 139-5.]

Rules of court: Judicial ethics—CJE 31.

Clerk not to practice law: RCW 2.32.090.

Coroner not to practice law: RCW 36.24.170.

Judges may not practice law: State Constitution Art. 4 § 19.

Sheriff not to practice law: RCW 36.28.110.

Title 3 JUSTICES OF THE PEACE AND CONSTABLES

Chapters

JUSTICE COURTS AND OTHER INFERIOR COURTS—1961 BASIC ACT

- 3.34 Justices of the peace.
- 3.46 Municipal departments.
- 3.50 Municipal departments—Alternate provision.
- 3.54 Clerks and deputy clerks.
- 3.58 Salaries and expenses.
- 3.62 Income of court.
- 3.66 Jurisdiction and venue

JUSTICE COURTS AND OTHER INFERIOR COURTS—1961 BASIC ACT

Chapter 3.34 JUSTICES OF THE PEACE

Sections

- 3.34.010 Justices of the peace—Number for each county.
- 3.34.065 Repealed.

3.34.010 Justices of the peace—Number for each county. The number of justices of the peace to be elected in each county shall be: Adams, three; Asotin, one; Benton, two; Chelan, one; Clallam, one; Clark, four; Columbia, one; Cowlitz, two; Douglas, one; Ferry, two; Franklin, one; Garfield, one; Grant, one; Grays Harbor, two; Island, three; Jefferson, one; King, twenty; Kitsap, two; Kittitas, two; Klickitat, two; Lewis, two; Lincoln, one; Mason, one; Okanogan, two; Pacific, three; Pend Oreille, two; Pierce, eight; San Juan, one; Skagit, three; Skamania, one; Snohomish, eight; Spokane, eight; Stevens, two; Thurston, one; Wahkiakum, one; Walla Walla, three; Whatcom, two; Whitman, two; Yakima, six: *Provided*, That this number may be increased in accordance with a resolution of the county commissioners under RCW 3.34.020. [1975 1st ex.s. c 153 § 1; 1973 1st ex.s. c 14 § 1; 1971 ex.s. c 147 § 1; 1970 ex.s. c 23 § 1; 1969 ex.s. c 66 § 1; 1965 ex.s. c 110 § 5; 1961 c 299 § 10.]

3.34.065 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 3.46 MUNICIPAL DEPARTMENTS

Sections

- 3.46.050 Selection of full time judges.
- 3.46.120 Revenue.

3.46.050 Selection of full time judges. Each city may select its full time municipal judge or judges by election, or by appointment in such manner as the city legislative body determines: *Provided*, That in cities having a population in excess of four hundred thousand, the municipal judges shall be elected. [1975 c 33 § 2; 1961 c 299 § 39.]

Severability—1975 c 33: See note following RCW 35.21.780.

3.46.120 Revenue. All revenue received by the clerk of a municipal department including penalties, fines, bail forfeitures, fees and costs shall be paid by the clerk to the city treasurer for the use of the city. [1975 1st ex.s. c 241 § 4; 1961 c 299 § 46.]

Chapter 3.50 MUNICIPAL DEPARTMENTS—ALTERNATE PROVISION

Sections

- 3.50.100 Revenue—Deposits.

3.50.100 Revenue—Deposits. All fees, costs, fines, forfeitures and other moneys imposed by any municipal court for the violation of any municipal or town ordinances shall be collected by the court clerk and, together with any other revenues received by the clerk, shall be deposited with the city or town treasurer as a part of the general fund of the city or town, or deposited in such other fund of the city or town, or deposited in such other funds as may be designated by the laws of the state of Washington. [1975 1st ex.s. c 241 § 3; 1961 c 299 § 59.]

Chapter 3.54 CLERKS AND DEPUTY CLERKS

Sections

- 3.54.020 Powers and duties.

3.54.020 Powers and duties. The district courts shall prescribe the duties of the clerk and deputy clerks. Such duties shall include all of the requirements of RCW 3.62.020 and 3.62.040 as now or hereafter amended and the receipt of bail and additionally the power to:

- (1) Accept and enter pleas;
- (2) Receive bail as set by the court;
- (3) Set cases for trial;
- (4) Administer oaths. [1975 1st ex.s. c 241 § 1; 1971 c 73 § 7; 1961 c 299 § 99.]

Chapter 3.58 SALARIES AND EXPENSES

Sections

- 3.58.010 Salaries of full time justices of the peace.

3.58.010 Salaries of full time justices of the peace. The annual salary of each full time justice of the peace shall be twenty-nine thousand dollars: *Provided*, That in cities having a population in excess of four hundred thousand, the city which pays the salary may increase

such salary of its municipal judges to an amount not more than the salary paid the superior court judges in the county in which the court is located: *Provided further*, That no full time justice of the peace shall perform any civil marriage between 8:00 a.m. and 5:00 p.m. Monday through Friday: *Provided further*, That a member of the legislature whose term of office is partly coextensive with or extends beyond the present term of office of any of the officials whose salary is increased by virtue of the provisions of RCW 43.03.010, 2.04.090, 2.06.060, 2.08.090 and 3.58.010 shall be eligible to be appointed or elected to any of the offices the salary of which is increased hereby but he shall not be entitled to receive such increased salary until after the expiration of his present term of office and his subsequent election or reelection to the office to which he was appointed or elected respectively during his term of office as legislator. [1975 1st ex.s. c 263 § 5; 1975 c 33 § 3; 1974 ex.s. c 149 § 6 (Initiative Measure No. 282); 1972 ex.s. c 100 § 4; 1969 c 52 § 1; 1965 c 147 § 1; 1961 c 299 § 100.]

Severability—1975 1st ex.s. c 263: See note following RCW 43.03.010.

Severability—1975 c 33: See note following RCW 35.21.780.

Severability—1974 ex.s. c 149 (Initiative Measure No. 282): See note following RCW 43.03.010.

Municipal courts, cities over 500,000, judges' salaries: RCW 35.20.160.

Chapter 3.62 INCOME OF COURT

Sections
3.62.040 Costs, fines, forfeitures and penalties from city cases.

3.62.040 Costs, fines, forfeitures and penalties from city cases. All costs, fines, forfeitures and penalties assessed and collected by district courts because of violations of city ordinances shall be collected and remitted by the clerk of the district court at least monthly directly to the treasurer of the city wherein the violation occurred. [1975 1st ex.s. c 241 § 2; 1961 c 299 § 108.]

Chapter 3.66 JURISDICTION AND VENUE

Sections
3.66.065 Assessment of punishment.

3.66.065 Assessment of punishment. If a defendant is found guilty, a justice holding office pursuant to chapters 3.30 through 3.74 RCW, or chapter 35.20 RCW, and not the jury, shall assess his punishment, notwithstanding the provisions of RCW 10.04.100. If such justice determines that the punishment he is authorized to assess is inadequate to the gravity of the offense he may order such defendant to enter recognizance to appear in the superior court of the county and may also recognize the witnesses and shall proceed as a committing magistrate. [1975 c 29 § 1; 1965 ex.s. c 110 § 7.]

Sentence and judgment: Rules of court: JCrR 5.04.

Title 4 CIVIL PROCEDURE

Chapters

- 4.16 Limitation of actions.
- 4.24 Special rights of action and special immunities.
- 4.44 Trial.
- 4.56 Judgments—Generally.
- 4.88 Appeals.
- 4.92 Actions against state.
- 4.96 Actions against political subdivisions, municipal corporations and quasi municipal corporations.

Chapter 4.16 LIMITATION OF ACTIONS

Sections
4.16.350 Actions against hospitals, hospital personnel, and members of the healing arts.

4.16.350 Actions against hospitals, hospital personnel, and members of the healing arts.

Proof and evidence required in actions against hospitals, personnel and members of healing arts: RCW 4.24.290.

Chapter 4.24 SPECIAL RIGHTS OF ACTION AND SPECIAL IMMUNITIES

Sections
4.24.230 Liability for conversion of goods or merchandise from store or mercantile establishment—Adults, minors—Parents, guardians.
4.24.240 Physician, dentist and pharmacist members of committees to evaluate credentials and qualifications of physicians, dentists or pharmacists—Immunity from civil suit.
4.24.250 Physicians, dentists and pharmacists filing charges or presenting evidence—Immunity—Records of medical, dental or pharmaceutical boards not subject to process.
4.24.260 Physicians, dentists or pharmacists filing charges or presenting evidence before boards—Immunity.
4.24.290 Action for damages based on professional negligence of hospitals or members of healing arts—Standard of proof—Evidence—Exception.
4.24.300 Persons rendering emergency care or transportation—Immunity from liability.
4.24.310 Persons rendering emergency care or transportation—Definitions.

4.24.230 Liability for conversion of goods or merchandise from store or mercantile establishment—Adults, minors—Parents, guardians. (1) An adult or emancipated minor who takes possession of any goods, wares or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller, and with the intention of converting such goods, wares or merchandise to his own use without having paid the purchase price thereof shall be liable in addition to actual damages, for a penalty to the owner or seller in the amount of the retail value thereof not to exceed one thousand dollars, plus costs of preparing and presenting the action of not less than one hundred dollars nor more than two hundred dollars.

(2) The parent or legal guardian having the custody of an unemancipated minor who takes possession of any goods, wares or merchandise displayed or offered for sale by any wholesale or retail store or other mercantile establishment without the consent of the owner or seller and with the intention of converting such goods, wares or merchandise to his own use without having paid the purchase price thereof, shall be liable as a penalty to the owner or seller for the retail value of such goods, wares or merchandise not to exceed five hundred dollars plus costs of preparing and presenting the action of not less than one hundred dollars nor more than two hundred dollars: *Provided*, That for the purposes of this subsection, liability shall not be imposed upon any governmental entity or private agency which has been assigned responsibility for the minor child pursuant to court order or action of the department of social and health services.

(3) Claims, but not judgments, arising under this section may not be assigned.

(4) A conviction for violation of *RCW 9.78.010 or 9.54.010 shall not be a condition precedent to maintenance of a civil action authorized by this section. [1975 1st ex.s. c 59 § 1.]

***Reviser's note:** "RCW 9.78.010 or 9.54.010" were both repealed by 1975 1st ex.s. c 260 § 9A.92.010, effective July 1, 1976. For later enactment see RCW 9A.56.020 and 9A.56.050.

4.24.240 Physician, dentist and pharmacist members of committees to evaluate credentials and qualifications of physicians, dentists or pharmacists—Immunity from civil suit. Physicians licensed under chapters 18.71 or 18.57 RCW, dentists licensed under chapter 18.32 RCW, and pharmacists licensed under chapter 18.64 RCW who are members of review committees for medical, dental, or pharmaceutical societies, and licensed hospitals, or committees whose duties require evaluation of credentials and qualifications of physicians, dentists, or pharmacists shall be immune from civil action for damages arising out of the performance of their duties on such committees, where such actions are being brought by or on behalf of the person who is being evaluated. [1975 1st ex.s. c 114 § 1; 1969 ex.s. c 157 § 1.]

4.24.250 Physicians, dentists and pharmacists filing charges or presenting evidence—Immunity—Records of medical, dental or pharmaceutical boards not subject to process. Physicians licensed under chapter 18.71 RCW or chapter 18.57 RCW, dentists licensed under chapter 18.32 RCW, and pharmacists licensed under chapter 18.64 RCW who, in good faith, file charges or present evidence against another member of their profession based on the claimed incompetency or gross misconduct of such person before a regularly constituted review committee or board of a medical, dental, or pharmaceutical society or hospital whose duty it is to evaluate the competency and qualifications of members of the profession, including limiting the extent of practice of such person in a hospital or similar institution, shall be immune from civil action for damages arising out of such activities. The written records of such committees or boards shall not be subject to

subpoena or discovery proceedings in any civil action, except actions arising out of the recommendations of such committees. [1975 1st ex.s. c 114 § 2; 1971 ex.s. c 144 § 1.]

4.24.260 Physicians, dentists or pharmacists filing charges or presenting evidence before boards—Immunity. Physicians licensed under chapter 18.71 RCW[,] dentists licensed under chapter 18.32 RCW and pharmacists licensed under chapter 18.64 RCW who, in good faith, file charges or present evidence against another member of their profession based on the claimed incompetency or gross misconduct of such person before the medical disciplinary board established under chapter 18.72 RCW, in a proceeding under chapter 18.32 RCW or to the board of pharmacy under RCW 18.64.160 shall be immune from civil action for damages arising out of such activities. [1975 1st ex.s. c 114 § 3; 1971 ex.s. c 144 § 2.]

4.24.290 Action for damages based on professional negligence of hospitals or members of healing arts—Standard of proof—Evidence—Exception. In any civil action for damages based on professional negligence against a hospital which is licensed by the state of Washington or against the personnel of any such hospital, or against a member of the healing arts including, but not limited to, a physician licensed under chapter 18.71 RCW, an osteopathic physician licensed under chapter 18.57 RCW, a chiropractor licensed under chapter 18.25 RCW, a dentist licensed under chapter 18.32 RCW, a podiatrist licensed under chapter 18.22 RCW, or a nurse licensed under chapters 18.78 or 18.88 RCW, the plaintiff in order to prevail shall be required to prove by a preponderance of the evidence that the defendant or defendants failed to exercise that degree of skill, care and learning possessed by other persons in the same profession and that as a proximate result of such failure the plaintiff suffered damages, but in no event shall the provisions of this section apply to an action based on the failure to obtain the informed consent of a patient. [1975 1st ex.s. c 35 § 1.]

Limitations of actions against hospitals and members of healing arts: RCW 4.16.350.

4.24.300 Persons rendering emergency care or transportation—Immunity from liability. Any person who in good faith and not for compensation renders emergency care at the scene of an emergency or who participates in transporting, not for compensation, therefrom an injured person or persons for emergency medical treatment shall not be liable for civil damages resulting from any act or omission in the rendering of such emergency care or in transporting such persons, other than acts or omissions constituting gross negligence or wilful or wanton misconduct. [1975 c 58 § 1.]

4.24.310 Persons rendering emergency care or transportation—Definitions. For the purposes of RCW 4.24.300 the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Good faith" means a state of mind denoting honesty of purpose, integrity, and a reasonable opinion that the immediacy of the situation is such that the rendering of care should not be postponed until the injured person is hospitalized.

(2) "Emergency care" means care, first aid, treatment, or assistance rendered to the injured person in need of immediate medical attention and includes providing or arranging for further medical treatment or care for the injured person. Except with respect to the injured person or persons being transported for further medical treatment or care, the immunity granted by RCW 4.24-.300 does not apply to the negligent operation of any motor vehicle.

(3) "Scene of an emergency" means the scene of an accident or other sudden or unexpected event or combination of circumstances which calls for immediate action other than in a hospital, doctor's office, or other place where qualified medical personnel practice or are employed. [1975 c 58 § 2.]

**Chapter 4.44
TRIAL**

Sections
4.44.160 General causes of challenge.
4.44.170 Particular causes of challenge.

4.44.160 General causes of challenge. General causes of challenge are:

- (1) A conviction for a felony.
- (2) A want of any of the qualifications prescribed by law for a juror.
- (3) Unsoundness of mind, or such defect in the faculties of the mind, or organs of the body, as renders him incapable of performing the duties of a juror in any action. [1975 1st ex.s. c 203 § 2; Code 1881 § 210; 1877 p 44 § 214; 1869 p 52 § 214; RRS § 327.]

Qualifications of jurors: RCW 2.36.070

4.44.170 Particular causes of challenge. Particular causes of challenge are of three kinds:

- (1) For such a bias as when the existence of the facts is ascertained, in judgment of law disqualifies the juror, and which is known in this code as implied bias.
- (2) For the existence of a state of mind on the part of the juror in reference to the action, or to either party, which satisfies the court that the challenged person cannot try the issue impartially and without prejudice to the substantial rights of the party challenging, and which is known in this code as actual bias.
- (3) For the existence of a defect in the functions or organs of the body which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the party challenging. [1975 1st ex.s. c 203 § 3; Code 1881 § 211; 1877 p 44 § 215; 1869 p 52 § 215; RRS § 329.]

Reviser's note: The word "code" appeared in Code 1881 § 211.
Qualification of jurors: RCW 2.36.070.

**Chapter 4.56
JUDGMENTS—GENERALLY**

Sections
4.56.115 Interest on judgments against state, political subdivisions or municipal corporations—Torts.

4.56.115 Interest on judgments against state, political subdivisions or municipal corporations—Torts. Judgments founded on the tortious conduct of the state of Washington or of the political subdivisions, municipal corporations, and quasi municipal corporations of the state, whether acting in their governmental or proprietary capacities, shall bear interest at the rate of eight percent per annum from the date of entry thereof: *Provided*, That in any case where a court is directed on review to enter judgment on a verdict or in any case where a judgment entered on a verdict is wholly or partly affirmed on review, interest on the judgment or on that portion of the judgment affirmed shall date back to and shall accrue from the date the verdict was rendered. [1975 c 26 § 1.]

**Chapter 4.88
APPEALS**

Sections
4.88.330 Indigent party—State to pay costs and fees incident to review by supreme court or court of appeals.

4.88.330 Indigent party—State to pay costs and fees incident to review by supreme court or court of appeals. When a party has been judicially determined to have a constitutional right to obtain a review and to be unable by reason of poverty to procure counsel to perfect the review all costs necessarily incident to the proper consideration of the review including preparation of the record, reasonable fees for court appointed counsel to be determined by the supreme court, and actual travel expenses of counsel for appearance in the supreme court or court of appeals, shall be paid by the state. Upon satisfaction of requirements established by supreme court rules and submission of appropriate vouchers to the clerk of the supreme court, payment shall be made from funds specifically appropriated by the legislature for that purpose. [1975 1st ex.s. c 261 § 2. Prior: 1972 ex.s. c 111 § 2; 1970 ex.s. c 31 § 2; 1965 c 133 § 2. Formerly RCW 10.01.112.]

Transcript of testimony—Fee—Forma pauperis: RCW 2.32.240.

**Chapter 4.92
ACTIONS AGAINST STATE**

Sections
4.92.045 Interest on judgments against state.
4.92.060 Actions against state officers or employees—Request for defense.
4.92.070 Actions against state officers or employees—Defense by attorney general—Expense of defense.
4.92.130 Tortious conduct of state—Tort claims revolving fund created—Purpose.
4.92.140 Compromise and settlement of claims by head of agency or department.
4.92.150 Compromise and settlement of claims by attorney general.
4.92.160 Payment of claims and judgments.

- 4.92.170 Payments charged to agencies and departments—Apportionments—Reimbursement of tort claims revolving fund—Reports—Insurance.
- 4.92.200 Actions against state on state warrant appearing to be redeemed—Claim required—Time limitation.

4.92.045 Interest on judgments against state. See RCW 4.56.115.

4.92.060 Actions against state officers or employees—Request for defense. Whenever an action or proceeding for damages shall be instituted against any state officer, including state elected officials, or employee, arising from his acts or omissions while performing, or in good faith purporting to perform, his official duties, such officer or employee may request the attorney general to authorize the defense of said action or proceeding at the expense of the state. [1975 1st ex.s. c 126 § 1; 1975 c 40 § 1; 1921 c 79 § 1; RRS § 890-1.]

4.92.070 Actions against state officers or employees—Defense by attorney general—Expense of defense. If the attorney general shall find that said officer or employee's acts or omissions were, or purported to be in good faith, within the scope of his official duties, said request shall be granted, in which event the necessary expenses of the defense of said action or proceeding shall be paid from the appropriations made for the support of the department to which such officer or employee is attached. In such cases the attorney general shall appear and defend such officer or employee, who shall assist and cooperate in the defense of such suit. [1975 1st ex.s. c 126 § 2; 1975 c 40 § 2; 1921 c 79 § 2; RRS § 890-2.]

4.92.130 Tortious conduct of state—Tort claims revolving fund created—Purpose. A tort claims revolving fund in the custody of the treasurer is hereby created to be used solely and exclusively for the payment of claims against the state arising out of tortious conduct and against its officers and employees for whom the defense of the claim was authorized under RCW 4.92.070. No money shall be paid from the tort claims revolving fund unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted and unless:

- (1) The claim shall have been reduced to final judgment in a court of competent jurisdiction; or
- (2) The claim has been approved for payment in accordance with RCW 4.92.140 as herein or hereafter amended. [1975 1st ex.s. c 126 § 3; 1969 c 140 § 1; 1963 c 159 § 7.]

Severability—1969 c 140: "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 c 140 § 5.] This applies to RCW 4.92.130, 4.92.131, 4.92.160 and 4.92.170.

Actions against regents, trustees, etc. of institutions of higher education or educational boards, payments of obligations from fund: RCW 28B.10.842.

4.92.140 Compromise and settlement of claims by head of agency or department. The head or governing body of any agency or department of state government,

with the approval of the attorney general, may consider, ascertain, adjust, determine, compromise and settle any claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. for which the state of Washington or any of its officers or employees would be liable in law for money damages of twenty-five hundred dollars or less. The acceptance by the claimant of any such award, compromise or settlement shall be final and conclusive on the claimant; and upon the state of Washington, unless procured by fraud, and shall constitute a complete release of any claim against the state of Washington or its affected officer or employee. A request for administrative settlement shall not preclude a claimant from filing a court action pending administrative determination, limit the amount recoverable in such a suit or constitute an admission against interest of either the claimant or the state. [1975 1st ex.s. c 126 § 4; 1963 c 159 § 8.]

4.92.150 Compromise and settlement of claims by attorney general. After commencement of an action in a court of competent jurisdiction upon a claim against the state, or any of its officers or employees arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq., the attorney general, with the approval of the court, following such testimony as the court may require, may compromise and settle the same and stipulate for judgment against the state, the affected officer or employee. [1975 1st ex.s. c 126 § 5; 1963 c 159 § 9.]

4.92.160 Payment of claims and judgments. Payment of claims and judgments arising out of tortious conduct or pursuant to 42 U.S.C. Sec. 1981 et seq. shall not be made by any agency or department of state government with the exception of the budget director, and he shall authorize and direct the payment of moneys only from the tort claims revolving fund whenever:

(1) The head or governing body of any agency or department of state certifies to him that a claim has been settled under authority of RCW 4.92.140 as herein or hereafter amended; or

(2) The clerk of court has made and forwarded a certified copy of a final judgment in a court of competent jurisdiction and the attorney general certifies that the judgment is final and was entered in an action on a claim arising out of tortious conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. Payment of a judgment shall be made to the clerk of the court for the benefit of the judgment creditors. Upon receipt of payment, the clerk shall satisfy the judgment against the state. [1975 1st ex.s. c 126 § 6; 1969 c 140 § 2; 1963 c 159 § 10.]

Reviser's note: "Budget director" changed to "director of the office of program planning and fiscal management", see chapter 43.41 RCW.

Severability—1969 c 140: See note following RCW 4.92.130.
Duty of clerk to forward copy of judgment: RCW 4.92.040.

4.92.170 Payments charged to agencies and departments—Apportionments—Reimbursement of tort claims revolving fund—Reports—Insurance. Liability for and payment of claims arising out of tortious

conduct or under and pursuant to 42 U.S.C. Sec. 1981 et seq. is declared to be a proper charge as part of the normal cost of operating the various agencies and departments of state government whose operations and activities give rise to the liability and a lawful charge against moneys appropriated or available to such agencies and departments.

Within any agency or department the charge shall be apportioned among such appropriated and other available moneys in the same proportion that the moneys finance the activity causing liability. Whenever the operations and activities of more than one agency or department combine to give rise to a single liability, the budget director shall determine the comparative responsibility of each agency or department for the liability.

State agencies over which the budget director has authority to revise allotments under chapter 43.88 RCW shall make reimbursement to the tort claims revolving fund for any payment made from it for the benefit of such agencies. The budget director is authorized and directed to transfer or order the transfer to the revolving fund, from moneys available or appropriated to such agencies, that sum of money which is a proper charge against them. Such amounts may be expended for the purposes for which the tort claims revolving fund was created by RCW 4.92.130 as herein or hereafter amended without further or additional appropriation: *Provided*, That in any case where reimbursement would seriously disrupt or prevent substantial performance of the operations or activities of the state agency, the budget director may relieve the agency of all or a portion of the obligation to make reimbursement.

The budget director shall report to the legislature, for any biennial period, on the status of the tort claims revolving fund, all payments made therefrom, all reimbursements made thereto, and the identity of agencies and departments of state government whose operations and activities give rise to liability, including those agencies and departments over which he does not have authority to revise allotments under chapter 43.88 RCW.

The budget director may authorize agencies, in accordance with chapter 41.05 RCW to the extent that it is applicable, to purchase insurance to protect and hold personally harmless any officer or employee of the state, or any classes of such officers or employees or for other persons performing services for the state, whether by contract or otherwise, from any action, claim, or proceeding for damages arising out of the performance of duties for, employment with, or the performance of services on behalf of the state and to hold him harmless from any expenses connected with the defense, settlement or monetary judgment from such actions.

The budget director shall adopt rules and regulations governing the procedures to be followed in making payment from the tort claims revolving fund, in reimbursing the revolving fund and in relieving an agency of its obligation to reimburse. [1975 1st ex.s. c 126 § 7; 1969 c 140 § 3; 1963 c 159 § 11.]

Reviser's note: "Budget director" changed to "director of the office of program planning and fiscal management", see chapter 43.41 RCW.

Severability—1969 c 140: See note following RCW 4.92.130.

4.92.200 Actions against state on state warrant appearing to be redeemed—Claim required—Time limitation. No action shall be commenced against the state on account of any state warrant appearing to have been redeemed unless a claim has been presented and filed with the state treasurer within six years of the date of issuance of such warrant. The requirements of this section shall not extend or modify the period of limitations otherwise applicable within which an action must be commenced, but such period shall begin and shall continue to run as if no claim were required. [1975 c 48 § 1.]

State warrants: RCW 43.08.061–43.08.080.

Chapter 4.96

ACTIONS AGAINST POLITICAL SUBDIVISIONS, MUNICIPAL CORPORATIONS AND QUASI MUNICIPAL CORPORATIONS

Sections

4.96.030 Interest on judgments against political subdivisions, municipal corporations or quasi municipal corporations.

4.96.030 Interest on judgments against political subdivisions, municipal corporations or quasi municipal corporations. See RCW 4.56.115.

Title 5 EVIDENCE

Chapters

5.60 Witnesses—Competency.

Chapter 5.60

WITNESSES—COMPETENCY

Sections

5.60.060 Who are disqualified—Privileged communications.

5.60.060 Who are disqualified—Privileged communications.

Optometrist—Client, privileged communications: RCW 18.53.200.

Title 6 ENFORCEMENT OF JUDGMENTS

Chapters

6.40 Uniform foreign money—judgments recognition act.

Chapter 6.40

UNIFORM FOREIGN MONEY—JUDGMENTS RECOGNITION ACT

Sections

6.40.010 Definitions.
6.40.020 Applicability.
6.40.030 Recognition and enforcement.

6.40.040	Grounds for nonrecognition.
6.40.050	Personal jurisdiction.
6.40.060	Stay in case of appeal.
6.40.070	Saving clause.
6.40.900	Uniformity of interpretation.
6.40.905	Short title.
6.40.910	Application to judgments in effect on effective date.
6.40.915	Section headings.

6.40.010 Definitions. As used in this chapter:

(1) "Foreign state" means any governmental unit other than the United States, or any state, district, commonwealth, territory, or insular possession thereof, or the Panama Canal Zone, the Trust Territory of the Pacific Islands, or the Ryukyu Islands;

(2) "Foreign judgment" means any judgment of a foreign state granting or denying recovery of a sum of money, other than a judgment for taxes, a fine or other penalty, or a judgment for support in matrimonial or family matters. [1975 1st ex.s. c 240 § 1.]

6.40.020 Applicability. This chapter applies to any foreign judgment that is final and conclusive and enforceable where rendered even though an appeal therefrom is pending or it is subject to appeal. [1975 1st ex.s. c 240 § 2.]

6.40.030 Recognition and enforcement. Except as provided in RCW 6.40.040, a foreign judgment meeting the requirements of RCW 6.40.020 is conclusive between the parties to the extent that it grants or denies recovery of a sum of money. The foreign judgment is enforceable in the same manner as the judgment of a sister state which is entitled to full faith and credit. [1975 1st ex.s. c 240 § 3.]

6.40.040 Grounds for nonrecognition. (1) A foreign judgment is not conclusive if

(a) the judgment was rendered under a system which does not provide impartial tribunals or procedures compatible with the requirements of due process of law;

(b) the foreign court did not have personal jurisdiction over the defendant; or

(c) the foreign court did not have jurisdiction over the subject matter.

(2) A foreign judgment need not be recognized if

(a) the defendant in the proceedings in the foreign court did not receive notice of the proceedings in sufficient time to enable him to defend;

(b) the judgment was obtained by fraud;

(c) the claim for relief on which the judgment is based is repugnant to the public policy of this state;

(d) the judgment conflicts with another final and conclusive judgment;

(e) the proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be settled otherwise than by proceedings in that court; or

(f) in the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action. [1975 1st ex.s. c 240 § 4.]

6.40.050 Personal jurisdiction. (1) The foreign judgment shall not be refused recognition for lack of personal jurisdiction if

(a) the defendant was served personally in the foreign state;

(b) the defendant voluntarily appeared in the proceedings, other than for the purpose of protecting property seized or threatened with seizure in the proceedings or of contesting the jurisdiction of the court over him;

(c) the defendant prior to the commencement of the proceedings had agreed to submit to the jurisdiction of the foreign court with respect to the subject matter involved;

(d) the defendant was domiciled in the foreign state when the proceedings were instituted, or, being a body corporate had its principal place of business, was incorporated, or had otherwise acquired corporate status, in the foreign state;

(e) the defendant had a business office in the foreign state and the proceedings in the foreign court involved a claim for relief arising out of business done by the defendant through that office in the foreign state; or

(f) the defendant operated a motor vehicle or airplane in the foreign state and the proceedings involved a claim for relief arising out of such operation.

(2) The courts of this state may recognize other bases of jurisdiction. [1975 1st ex.s. c 240 § 5.]

6.40.060 Stay in case of appeal. If the defendant satisfies the court either that an appeal is pending or that he is entitled and intends to appeal from the foreign judgment, the court may stay the proceedings until the appeal has been determined or until the expiration of a period of time sufficient to enable the defendant to prosecute the appeal. [1975 1st ex.s. c 240 § 6.]

6.40.070 Saving clause. This chapter does not prevent the recognition of a foreign judgment in situations not covered by this chapter. [1975 1st ex.s. c 240 § 7.]

6.40.900 Uniformity of interpretation. This chapter shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1975 1st ex.s. c 240 § 8.]

6.40.905 Short title. This chapter may be cited as the Uniform Foreign Money-Judgments Recognition Act. [1975 1st ex.s. c 240 § 9.]

6.40.910 Application to judgments in effect on effective date. This chapter shall apply to all foreign judgments in effect on the date this chapter becomes effective as well as all judgments rendered after such date. [1975 1st ex.s. c 240 § 10.]

Effective date—1975 1st ex.s. c 240: September 8, 1975, see preface to 1975 session laws.

6.40.915 Section headings. Section headings as used in this act shall not constitute part of the law. [1975 1st ex.s. c 240 § 12.]

Title 7 SPECIAL PROCEEDINGS

Chapters

7.68 Victims of crimes—Compensation.

Chapter 7.68

VICTIMS OF CRIMES—COMPENSATION

Sections

7.68.020	Definitions.
7.68.060	Applications for benefits.
7.68.070	Benefits—Right to and amount—Limitations.
7.68.075	Marital status—Payment for or on account of children.
7.68.080	Medical aid.
7.68.110	Appeals.
7.68.125	Erroneous or fraudulent payment—Repayment, when—Penalty.
7.68.140	Confidentiality.
7.68.145	Release of information in performance of official duties.
7.68.165	Application of chapter to claims filed under RCW 7.68.160.

7.68.020 Definitions. The following words and phrases as used in this chapter shall have the following meanings unless the context otherwise requires:

(1) "Department" means the department of labor and industries.

(2) "Criminal act" means an act committed or attempted in this state which is punishable as a felony or gross misdemeanor under the laws of this state: *Provided*, That the operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law does not constitute a "criminal act" unless the injury or death was intentionally inflicted or the operation thereof was part of the commission of another criminal act as defined in this section: *Provided further*: (a) That neither an acquittal in a criminal prosecution nor the absence of any such prosecution shall be admissible in any claim or proceeding under this chapter as evidence of the non-criminal character of the acts giving rise to such claim or proceeding; (b) that evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter shall be admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; (c) that acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct shall be deemed to be criminal conduct within the meaning of this chapter.

(3) "Victim" means a resident of the state who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" shall be interchangeable with "employee" or "workman" as defined in chapter 51.08 RCW as now or hereafter amended.

(4) "Child", "accredited school", "dependent", "beneficiary", "average monthly wage", "director", "injury", "invalid", "permanent partial disability", and "permanent total disability" shall have the meanings assigned

to them in chapter 51.08 RCW as now or hereafter amended.

(5) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood.

(6) "Resident", for the purpose of eligibility for benefits under this chapter, means a person who has been in this state for thirty days or has clearly signified an intent to remain in this state for at least thirty days. [1975 1st ex.s. c 176 § 1; 1973 1st ex.s. c 122 § 2.]

7.68.060 Applications for benefits. For the purposes of applying for benefits under this chapter, the rights, privileges, responsibilities, duties, limitations and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and 51.28.060 as now or hereafter amended shall apply: *Provided*, That no compensation of any kind shall be available under this chapter if:

(1) An application for benefits is not received by the department within one hundred eighty days after the date of the criminal act or one hundred twenty days after the date of death of the victim, or the rights of dependents or beneficiaries accrued, if such is the case, or

(2) The criminal act is not reported by the victim or someone on his behalf to a local police department or sheriff's office within seventy-two hours of its occurrence or, if it could not reasonably have been reported within that period, within seventy-two hours of the time when a report could reasonably have been made. [1975 1st ex.s. c 176 § 2; 1973 1st ex.s. c 122 § 6.]

7.68.070 Benefits—Right to and amount—Limitations. The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, *51.32.070, 51.32.073, 51.32.180, 51.32.190 and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, or his family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, and the rights, duties, responsibilities, limitations and procedures applicable to a workman as contained in RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person shall be entitled to benefits under this chapter when the injury for which benefits are sought, was:

(a) The result of consent, provocation or incitement by the victim;

(b) The result of an act or acts committed by a person living in the same household with the victim;

(c) The result of an act or acts committed by a person who is at the time of the criminal act the spouse, child, parent, or sibling of the victim by the half or whole blood, adoption or marriage, or the parent of the spouse

of or sibling of the spouse of the victim by the half or whole blood, adoption, or marriage;

(d) The result of the victim assisting, attempting, or committing a criminal act; or

(e) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services.

(4) The benefits established upon the death of a workman and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: *Provided*, That in the event the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived him or where such spouse has legal custody of all of his children, shall be limited to burial expenses as provided in RCW 51.32.050 as now or hereafter amended and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits shall be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter: *Provided*, That in the event a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, such victim shall receive monthly during the period of such disability the following percentages, where applicable, of the average monthly wage determined as of the date

of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of such average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of such average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of such average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of such average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of such average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of such average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of such average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of such average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of such average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of such average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of such average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of such average monthly wage.

(6) The benefits established in RCW 51.32.080 as now or hereafter amended for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 as now or hereafter amended for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter: *Provided*, That no person shall be eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section shall apply under this chapter.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended shall apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workmen contained in RCW 51.32-.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32-.135, 51.32.140, 51.32.150, 51.32.160 and 51.32.210 as now or hereafter amended shall be applicable to payment of benefits to, for or on behalf of victims under this chapter. [1975 1st ex.s. c 176 § 3; 1973 1st ex.s. c 122 § 7.]

***Reviser's note:** RCW "51.32.070" was repealed by 1975 1st ex.s. c 224 § 19.

7.68.075 Marital status—Payment for or on account of children. Notwithstanding the provisions of any of the sections, as now or hereafter amended, of Title 51 RCW which are made applicable to this chapter, the marital status of all victims shall be deemed to be fixed as of the date of the criminal act. All references to the child or children living or conceived of the victim in this chapter shall be deemed to refer to such child or children as of the date of the criminal act unless the context clearly indicates the contrary.

Payments for or on account of any such child or children shall cease when such child is no longer a "child" as defined in *RCW 51.32.005, as now or hereafter amended, or on the death of any such child whichever occurs first.

Payments to the victim or surviving spouse for or on account of any such child or children shall be made only when the victim or surviving spouse has legal custody of any such child or children. Where the victim or surviving spouse does not have such legal custody any payments for or on account of any such child or children shall be made to the person having legal custody of such child or children and the amount of payments shall be subtracted from the payments which would have been due the victim or surviving spouse had legal custody not been transferred to another person. [1975 1st ex.s. c 176 § 9.]

***Reviser's note:** "RCW 51.32.005" was repealed by 1975 1st ex.s. c 224 § 19.

7.68.080 Medical aid. The provisions of chapter 51.36 RCW as now or hereafter amended shall govern the provision of medical aid under this chapter except that:

(1) The provisions contained in RCW 51.36.030 and 51.36.040 as now or hereafter amended shall not apply to this chapter;

(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation shall not apply: *Provided*, That when the injury to any victim is so serious as to require his being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed from the fund established pursuant to RCW 7.68.090. [1975 1st ex.s. c 176 § 4; 1973 1st ex.s. c 122 § 8.]

7.68.110 Appeals. The provisions contained in chapter 51.52 RCW as now or hereafter amended relating to appeals shall govern appeals under this chapter: *Provided*, That no provision contained in chapter 51.52

RCW concerning employers as parties to any settlement, appeal or other action shall apply to this chapter: *Provided further*, That appeals taken from a decision of the board of industrial insurance appeals under this chapter shall be governed by the provisions relating to judicial review of administrative decisions contained in RCW 34.04.130 and 34.04.140 as now or hereafter amended. [1975 1st ex.s. c 176 § 5; 1973 1st ex.s. c 122 § 11.]

7.68.125 Erroneous or fraudulent payment—Repayment, when—Penalty. (1) Whenever any payment under this chapter is made because of clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient thereof mistakenly acted upon, or any other circumstance of a similar nature, all not induced by fraud, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter: *Provided*, That the department must make claim for such repayment or recoupment within one year of the making of any such payment or it will be deemed that any claim therefor has been waived: *Provided further*, That the department may exercise its discretion to waive, in whole or in part, the amount of any such timely claim.

(2) Whenever any payment under this chapter has been made pursuant to an adjudication by the department, board, or any court and timely appeal therefrom has been made and the final decision is that any such payment was made pursuant to an erroneous adjudication, the recipient thereof shall repay it and recoupment may be made from any future payments due to the recipient under this chapter: *Provided*, That the department may exercise its discretion to waive, in whole or in part, the amount thereof.

(3) Whenever any payment under this chapter has been induced by fraud the recipient thereof shall repay any such payment together with a penalty of fifty percent of the total of any such payments and the amount of such total sum may be recouped from any future payments due to the recipient under this chapter and the amount of the penalty shall be placed in the fund or funds established pursuant to RCW 7.68.090 as now or hereafter amended. [1975 1st ex.s. c 176 § 8.]

7.68.140 Confidentiality. Information contained in the claim files and records of victims, under the provisions of this chapter, shall be deemed confidential and shall not be open to public inspection: *Provided*, That, except as limited by state or federal statutes or regulations, such information may be provided to public employees in the performance of their official duties: *Provided further*, That except as otherwise limited by state or federal statutes or regulations a representative of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant: *Provided further*, That physicians treating or examining victims claiming benefits under this chapter or physicians giving medical advice to the department regarding any claim may, at the discretion of the department and as not otherwise limited

by state or federal statutes or regulations, inspect the claim files and records of such victims, and other persons may, when rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this chapter, inspect the claim files and records of such victims at the discretion of the department and as not otherwise limited by state or federal statutes or regulations. [1975 1st ex.s. c 176 § 6; 1973 1st ex.s. c 122 § 14.]

7.68.145 Release of information in performance of official duties. Notwithstanding any other provision of law, all law enforcement, criminal justice, or other governmental agencies, or hospital; any physician or other practitioner of the healing arts; or any other organization or person having possession or control of any investigative or other information pertaining to any alleged criminal act or victim concerning which a claim for benefits has been filed under this chapter, shall, upon request, make available to and allow the reproduction of any such information by the section of the department administering this chapter or other public employees in their performance of their official duties under this chapter.

No person or organization, public or private, shall incur any legal liability by reason of releasing any such information to the director of labor and industries or the section of the department which administers this chapter or other public employees in the performance of their official duties under this chapter. [1975 1st ex.s. c 176 § 7.]

7.68.165 Application of chapter to claims filed under RCW 7.68.160. The rights, privileges, responsibilities, duties, limitations and procedures contained in this chapter shall apply to those claims filed pursuant to RCW 7.68.160. In respect to such claims, the department shall proceed in the same manner and with the same authority as provided in this chapter with respect to those claims filed pursuant to RCW 7.68.060 as now or hereafter amended. [1975 1st ex.s. c 176 § 10.]

Title 9

CRIMES AND PUNISHMENTS

Chapters

- 9.01 General provisions.
- 9.08 Animals, crimes relating to.
- 9.09 Arson.
- 9.11 Assault.
- 9.15 Bigamy.
- 9.18 Bribery and grafting.
- 9.19 Burglary.
- 9.22 Conspiracy.
- 9.26 Counterfeiting.
- 9.26A Credit cards, crimes relating to.
- 9.27 Disturbances, riot and unlawful assembly.
- 9.30 Duelling.
- 9.31 Escape and rescue.
- 9.33 Extortion, blackmail and coercion.

- 9.34 False personation.
- 9.37 False pretenses.
- 9.38 False representations.
- 9.40 Fire, crimes relating to.
- 9.44 Forgery.
- 9.45 Frauds and swindles.
- 9.46 Gambling—1973 Act.
- 9.48 Homicide.
- 9.52 Kidnaping.
- 9.54 Larceny.
- 9.55 Legislature, crimes relating to.
- 9.61 Malicious mischief—Injury to property.
- 9.65 Mayhem.
- 9.68 Obscenity.
- 9.69 Obstructing justice.
- 9.72 Perjury.
- 9.75 Robbery.
- 9.76 Sabbath breaking.
- 9.78 Shoplifting.
- 9.79 Sex crimes.
- 9.80 Suicide.
- 9.83 Trespass.
- 9.87 Vagrancy.
- 9.91 Miscellaneous crimes.
- 9.94 Prisoners—State penal institutions.
- 9.95 Prison terms, paroles and probation.
- 9.96A Restoration of employment rights.

Many of the sections of this title were repealed by Title 9A "Washington Criminal Code" such repeals will not however become operative until July 1, 1976, which is the effective date of Title 9A RCW (See RCW 9A.04.010). The comprehensive schedule of repealers is codified as RCW 9A.98.010. Such repealers are also noted in the supplemental "Table of Disposition of Former RCW Sections" published in this volume.

Chapter 9.01 GENERAL PROVISIONS

- | Sections | |
|----------|--|
| 9.01.010 | through 9.01.050 Repealed. (Effective July 1, 1976.) |
| 9.01.060 | through 9.01.100 Repealed. (Effective July 1, 1976.) |
| 9.01.111 | through 9.01.116 Repealed. (Effective July 1, 1976.) |
| 9.01.150 | Repealed. (Effective July 1, 1976.) |
| 9.01.170 | through 9.01.190 Repealed. (Effective July 1, 1976.) |

9.01.010 through 9.01.050 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.01.060 through 9.01.100 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.01.111 through 9.01.116 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.01.150 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.01.170 through 9.01.190 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.08
ANIMALS, CRIMES RELATING TO**

Sections
9.08.040 Repealed. (Effective July 1, 1976.)
9.08.050 Repealed.

9.08.040 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.08.050 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.09
ARSON**

Sections
9.09.010 through 9.09.060 Repealed. (Effective July 1, 1976.)

9.09.010 through 9.09.060 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.11
ASSAULT**

Sections
9.11.010 through 9.11.050 Repealed. (Effective July 1, 1976.)

9.11.010 through 9.11.050 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.15
BIGAMY**

Sections
9.15.010 through 9.15.020 Repealed. (Effective July 1, 1976.)

9.15.010 through 9.15.020 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.18
BRIBERY AND GRAFTING**

Sections
9.18.010 through 9.18.070 Repealed. (Effective July 1, 1976.)
9.18.090 through 9.18.110 Repealed. (Effective July 1, 1976.)

9.18.010 through 9.18.070 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.18.090 through 9.18.110 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.19
BURGLARY**

Sections
9.19.010 through 9.19.050 Repealed. (Effective July 1, 1976.)

9.19.010 through 9.19.050 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.22
CONSPIRACY**

Sections
9.22.010 through 9.22.040 Repealed. (Effective July 1, 1976.)

9.22.010 through 9.22.040 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.26
COUNTERFEITING**

Sections
9.26.010 through 9.26.030 Repealed. (Effective July 1, 1976.)

9.26.010 through 9.26.030 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.26A
CREDIT CARDS, CRIMES RELATING TO**

Sections
9.26A.010 through 9.26A.080 Repealed. (Effective July 1, 1976.)

9.26A.010 through 9.26A.080 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.27
DISTURBANCES, RIOT AND UNLAWFUL
ASSEMBLY**

Sections
9.27.010 Repealed. (Effective July 1, 1976.)
9.27.020 through 9.27.100 Repealed. (Effective July 1, 1976.)

9.27.010 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.27.020 through 9.27.100 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

**Chapter 9.30
DUELLING**

Sections
9.30.010 through 9.30.050 Repealed. (Effective July 1, 1976.)

9.30.010 through 9.30.050 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.31
ESCAPE AND RESCUE

Sections

9.31.005 through 9.31.080 Repealed. (Effective July 1, 1976.)
9.31.100 Repealed. (Effective July 1, 1976.)

9.31.005 through 9.31.080 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.31.100 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.33
EXTORTION, BLACKMAIL AND COERCION

Sections

9.33.010 through 9.33.070 Repealed. (Effective July 1, 1976.)

9.33.010 through 9.33.070 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.34
FALSE PERSONATION

Sections

9.34.010 through 9.34.020 Repealed. (Effective July 1, 1976.)

9.34.010 through 9.34.020 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.37
FALSE PRETENSES

Sections

9.37.010 through 9.37.060 Repealed. (Effective July 1, 1976.)

9.37.010 through 9.37.060 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.38
FALSE REPRESENTATIONS

Sections

9.38.030 through 9.38.050 Repealed. (Effective July 1, 1976.)

9.38.030 through 9.38.050 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.40
FIRE, CRIMES RELATING TO

Sections

9.40.010 through 9.40.030 Repealed. (Effective July 1, 1976.)
9.40.050 through 9.40.080 Repealed. (Effective July 1, 1976.)

9.40.010 through 9.40.030 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.40.050 through 9.40.080 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.44
FORGERY

Sections

9.44.010 through 9.44.070 Repealed. (Effective July 1, 1976.)

9.44.010 through 9.44.070 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.45
FRAUDS AND SWINDLES

Sections

9.45.010 Repealed. (Effective July 1, 1976.)
9.45.030 Repealed. (Effective July 1, 1976.)
9.45.050 Repealed. (Effective July 1, 1976.)
9.45.200 Repealed. (Effective July 1, 1976.)

9.45.010 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.45.030 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.45.050 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.45.200 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.46
GAMBLING—1973 ACT

Sections

9.46.010 Legislative declaration.
9.46.020 Definitions.
9.46.030 Certain gambling activities authorized.
9.46.070 Gambling commission—Powers and duties.
9.46.075 Gambling commission—Denial, suspension, or revocation of license, permit—Other provisions not applicable.
9.46.090 Gambling commission—Reports.
9.46.113 Taxation of gambling activities—Disbursement.
9.46.130 Inspection and audit of premises, paraphernalia, books and records—Reports for the commission.
9.46.140 Gambling commission—Hearing and subpoena power—Hearing officers.
9.46.160 Conducting activity without license as violation—Penalties.
9.46.210 Enforcement—Commission as a law enforcement agency.
9.46.293 Fishing derbies exempted.

9.46.010 Legislative declaration. It is hereby declared to be the policy of the legislature, recognizing the close relationship between professional gambling and organized crime, to restrain all persons from seeking profit from professional gambling activities in this state;

to restrain all persons from patronizing such professional gambling activities; to safeguard the public against the evils induced by common gamblers and common gambling houses engaged in professional gambling; and at the same time, both to preserve the freedom of the press and to avoid restricting participation by individuals in activities and social pastimes, which activities and social pastimes are more for amusement rather than for profit, do not maliciously affect the public, and do not breach the peace.

The legislature further declares that the raising of funds for the promotion of bona fide charitable or nonprofit organizations is in the public interest as is participation in such activities and social pastimes as are hereinafter in this chapter authorized.

The legislature further declares that the conducting of bingo, raffles, and amusement games and the operation of punch boards, pull-tabs, card games and other social pastimes, when conducted pursuant to the provisions of this chapter and any rules and regulations adopted pursuant thereto, are hereby authorized, as are only such lotteries for which no valuable consideration has been paid or agreed to be paid as hereinafter in this chapter provided.

The legislature further declares that fishing derbies shall not constitute any form of gambling and shall not be considered as a lottery, a raffle, or an amusement game and shall not be subject to the provisions of this chapter or any rules and regulations adopted hereunder.

All factors incident to the activities authorized in this chapter shall be closely controlled, and the provisions of this chapter shall be liberally construed to achieve such end. [1975 1st ex.s. c 259 § 1; 1974 ex.s. c 155 § 1; 1974 ex.s. c 135 § 1; 1973 1st ex.s. c 218 § 1.]

Reviser's note: Throughout this chapter as devolved from 1973 1st ex.s. c 218 the phrase "this act" has been changed to "this chapter". In addition to sections codified in this chapter, 1973 1st ex.s. c 218 had a repealer section (29) repealing RCW 9.47.150-9.47.170, 9.47.300-9.47.440, 9.59.010-9.59.050 and 82.28.010-82.28.060 and a legislative directive section (30) stating sections 1-28 should constitute a new chapter in Title 9 RCW.

Severability—1974 ex.s. c 155: "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 ex.s. c 155 § 13; 1974 ex.s. c 135 § 13.] This applies to RCW 9.46.010, 9.46.020, 9.46.030, 9.46.040, 9.46.070, 9.46.080, 9.46.110, 9.46.195, 9.46.200, 9.46.210, 9.46.230, 9.46.295 and to repeal of RCW 9.46.280. Section 14 of the act which provided for an effective date and that act would be subject to referendum petition was vetoed by the governor. Such veto and the message thereon can be found in chapter 155, Laws of 1974 extraordinary session.

9.46.020 Definitions. (1) "Amusement game" means a game played for entertainment in which:

- (a) The contestant actively participates;
- (b) The outcome depends in a material degree upon the skill of the contestant;
- (c) Only merchandise prizes are awarded;
- (d) The outcome is not in the control of the operator;
- (e) The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game; and

(f) Said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, including the furnishing of equipment, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting such game or said game is conducted as part of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW or said game is conducted as part of and upon the site of:

(i) a civic center of a city with a population of twenty thousand or more persons as of the most recent decennial census of the federal government; or

(ii) a worlds fair or similar exposition which is approved by the Bureau of International Expositions at Paris, France; or

(iii) a community-wide civic festival held not more than once annually and sponsored or approved by a city or town.

(2) "Bingo" means a game in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game, when said game is conducted by a bona fide charitable or nonprofit organization which does not conduct or allow its premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week, or if an agricultural fair authorized under chapters 15.76 and 36.37 RCW, which does not conduct bingo on more than twelve consecutive days in any calendar year, and except in the case of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW, no person other than a bona fide member or an employee of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of said game takes any part in the management or operation of any game conducted by any other organization or any other branch of the same organization and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

(3) "Bona fide charitable or nonprofit organization" means: (a) any organization duly existing under the provisions of chapters 24.12, 24.20, or 24.28 RCW, any agricultural fair authorized under the provisions of chapters 15.76 or 36.37 RCW, or any nonprofit corporation duly existing under the provisions of chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, or any nonprofit organization, whether incorporated or otherwise, when found by the commission to be organized and operating for one or more of the aforesaid purposes only, all of which in the opinion of the commission have been organized and are operated primarily for purposes other than the operation of gambling activities authorized under this chapter; or (b) any corporation which has been incorporated under Title 36 U.S.C. and whose

principal purposes are to furnish volunteer aid to members of the armed forces of the United States and also to carry on a system of national and international relief and to apply the same in mitigating the sufferings caused by pestilence, famine, fire, floods, and other national calamities and to devise and carry on measures for preventing the same. The fact that contributions to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section.

Any person, association or organization which pays its employees, including members, compensation other than is reasonable therefor under the local prevailing wage scale shall be deemed paying compensation based in part or whole upon receipts relating to gambling activities authorized under this chapter and shall not be a bona fide charitable or nonprofit organization for the purposes of this chapter.

(4) "Bookmaking" means accepting bets as a business, rather than in a casual or personal fashion, upon the outcome of future contingent events.

(5) "Commission" means the Washington state gambling commission created in RCW 9.46.040.

(6) "Contest of chance" means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

(7) "Fishing derby" means a fishing contest, with or without the payment or giving of an entry fee or other consideration by some or all of the contestants wherein prizes are awarded for the specie[s], size, weight, or quality of fish caught in a bona fide fishing or recreational event.

(8) "Gambling". A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include fishing derbies as defined by this chapter, parimutuel betting as authorized by chapter 67.16 RCW, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health or accident insurance. In addition, a contest of chance which is specifically excluded from the definition of lottery under subsection (13) of this section shall not constitute gambling.

(9) "Gambling device" means: (a) Any device or mechanism the operation of which a right to money, credits, deposits or other things of value may be created, in return for a consideration, as the result of the operation of an element of chance; (b) any device or mechanism which, when operated for a consideration,

does not return the same value or thing of value for the same consideration upon each operation thereof; (c) any device, mechanism, furniture, fixture, construction or installation designed primarily for use in connection with professional gambling; and (d) any subassembly or essential part designed or intended for use in connection with any such device, mechanism, furniture, fixture, construction or installation. But in the application of this definition, a pinball machine or similar mechanical amusement device which confers only an immediate and unrecorded right of replay on players thereof, which does not contain any mechanism which varies the chance of winning free games or the number of free games which may be won or a mechanism or a chute for dispensing coins or a facsimile thereof, and which prohibits multiple winnings depending upon the number of coins inserted and requires the playing of five balls individually upon the insertion of a nickel or dime, as the case may be, to complete any one operation thereof, shall not be deemed a gambling device: *Provided further*, That owning, possessing, buying, selling, renting, leasing, financing, holding a security interest in, storing, repairing and transporting such pinball machines or similar mechanical amusement devices shall not be deemed engaging in professional gambling for the purposes of this chapter and shall not be a violation of this chapter: *Provided further*, That any fee for the purchase or rental of any such pinball machines or similar amusement devices shall have no relation to the use to which such machines are put but be based only upon the market value of any such machine, regardless of the location of or type of premises where used, and any fee for the storing, repairing and transporting thereof shall have no relation to the use to which such machines are put, but be commensurate with the cost of labor and other expenses incurred in any such storing, repairing and transporting.

(10) "Gambling information" means any wager made in the course of and any information intended to be used for professional gambling. In the application of this definition information as to wagers, betting odds and changes in betting odds shall be presumed to be intended for use in professional gambling: *Provided, however*, That this subsection shall not apply to newspapers of general circulation or commercial radio and television stations licensed by the federal communications commission.

(11) "Gambling premises" means any building, room, enclosure, vehicle, vessel or other place used or intended to be used for professional gambling. In the application of this definition, any place where a gambling device is found, shall be presumed to be intended to be used for professional gambling.

(12) "Gambling record" means any record, receipt, ticket, certificate, token, slip or notation given, made[,] used or intended to be used in connection with professional gambling.

(13) "Lottery" means a scheme for the distribution of money or property by chance, among persons who have paid or agreed to pay a valuable consideration for the chance.

For the purpose of this chapter, the following activities do not constitute "valuable consideration" as an element of a lottery:

(a) Listening to or watching a television or radio program or subscribing to a cable television service;

(b) Filling out and returning a coupon or entry blank or facsimile which is received through the mail or published in a bona fide newspaper or magazine, or in a program sold in conjunction with and at a regularly scheduled sporting event, or the purchase of such a newspaper, magazine or program;

(c) Sending a coupon or entry blank by United States mail to a designated address in connection with a promotion conducted in this state;

(d) Visitation to any business establishment to obtain a coupon, or entry blank;

(e) Mere registration without purchase of goods or services;

(f) Expenditure of time, thought, attention and energy in perusing promotional material;

(g) Placing or answering a telephone call in a prescribed manner or otherwise making a prescribed response or answer; or

(h) Furnishing the container of any product as packaged by the manufacturer, or a particular portion thereof but only if furnishing a plain piece of paper or card with the name of the manufacturer or product handwritten on it is acceptable in lieu thereof: *Provided*, That where any drawing is held by or on behalf of in-state retail outlets in connection with business promotions authorized under subsections (d) and (e) hereof, no such in-state retail outlet may conduct more than one such drawing during each calendar year and the period of the drawing and its promotion shall not extend for more than seven consecutive days: *Provided further*, That if the sponsoring organization has more than one outlet in the state such drawings must be held in all such outlets at the same time except that a sponsoring organization with more than one outlet may conduct a separate drawing in connection with the initial opening of any such outlet.

For purposes of this chapter, radio and television broadcasting is hereby declared to be preempted by applicable federal statutes and the rules applicable thereto by the federal communications commission. Broadcast programming, including advertising and promotion, that complies with said federal statutes and regulations is hereby authorized.

(14) "Player" means a natural person who engages, on equal terms with the other participants, and solely as a contestant or bettor, in any form of gambling in which no person may receive or become entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of a particular gambling activity. A natural person who gambles at a social game of chance on equal terms with the other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to

play, permitting the use of premises therefor, and supplying cards or other equipment used therein. A person who engages in "bookmaking" as defined in this section is not a "player".

(15) A person is engaged in "professional gambling" when:

(a) Acting other than as a player or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly engages in conduct which materially aids any other form of gambling activity; or

(b) Acting other than as a player, or in the manner set forth in RCW 9.46.030 as now or hereafter amended, he knowingly accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity;

(c) He engages in bookmaking; or

(d) He conducts a lottery as defined in subsection (13) of this section.

Conduct under subparagraph (a), except as exempted under RCW 9.46.030 as now or hereafter amended, includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. If a person having substantial proprietary or other authoritative control over any premises shall permit said premises to be used with the person's knowledge for the purpose of conducting gambling activity other than gambling activities as set forth in RCW 9.46.030 as now or hereafter amended, and acting other than as a player, and said person permits such to occur or continue or makes no effort to prevent its occurrence or continuation, he shall be considered as being engaged in professional gambling: *Provided*, That the proprietor of a bowling establishment who awards prizes obtained from player contributions, to players successfully knocking down pins upon the contingency of identifiable pins being placed in a specified position or combination of positions, as designated by the posted rules of the bowling establishment, where the proprietor does not participate in the proceeds of the "prize fund" shall not be construed to be engaging in "professional gambling" within the meaning of this chapter: *Provided further*, That the books and records of the game shall be open to public inspection.

(16) "Punch boards" and "pull-tabs" shall be given their usual and ordinary meaning as of July 16, 1973, except that such definition may be revised by the commission pursuant to rules and regulations promulgated pursuant to this chapter.

(17) "Raffle" means a game in which tickets bearing an individual number are sold for not more than one dollar each and in which a prize or prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is

conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game.

(18) "Social card game" means a card game, including but not limited to the game commonly known as "Mah Jongg", which constitutes gambling and contains each of the following characteristics:

(a) There are two or more participants and each of them are players; and

(b) A player's success at winning money or other thing of value by overcoming chance is in the long run largely determined by the skill of the player; and

(c) No organization, corporation or person collects or obtains or charges any percentage of or collects or obtains any portion of the money or thing of value wagered or won by any of the players: *Provided*, That this item (c) shall not preclude a player from collecting or obtaining his winnings; and

(d) No organization or corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing: *Provided*, That this item (d) shall not apply to the membership fee in any bona fide charitable or nonprofit organization or to an admission fee allowed by the commission pursuant to RCW 9.46.070; and

(e) The type of card game is one specifically approved by the commission pursuant to RCW 9.46.070; and

(f) The extent of wagers, money or other thing of value which may be wagered or contributed by any player does not exceed the amount or value specified by the commission pursuant to RCW 9.46.070.

(19) "Thing of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

(20) "Whoever" and "person" include natural persons, corporations and partnerships and associations of persons; and when any corporate officer, director or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this chapter committed by his corporation or partnership, he shall be punishable for such violation as if it had been directly committed by him. [1975 1st ex.s. c 259 § 2; 1974 ex.s. c 155 § 2; 1974 ex.s. c 135 § 2; 1973 1st ex.s. c 218 § 2.]

Severability—1974 ex.s. c 155: See note following RCW 9.46.010.

9.46.030 Certain gambling activities authorized. (1) The legislature hereby authorizes bona fide charitable or nonprofit organizations to conduct bingo games, raffles, amusement games, to utilize punch boards and pull-tabs and to allow their premises and facilities to be used by members and guests only to play social card games authorized by the commission, when licensed,

conducted or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(2) Bona fide charitable or bona fide nonprofit organizations organized primarily for purposes other than the conduct of raffles, are hereby authorized to conduct raffles without obtaining a license to do so from the commission when such raffles are held in accordance with all other requirements of chapter 9.46 RCW, other applicable laws, and rules of the commission; when gross revenues from all such raffles held by the organization during the calendar year do not exceed five thousand dollars; and when tickets to such raffles are sold only to, and winners are determined only from among, the regular members of the organization conducting the raffle: *Provided*, That the term members for this purpose shall mean only those persons who have become members prior to the commencement of the raffle and whose qualification for membership was not dependent upon, or in any way related to, the purchase of a ticket, or tickets, for such raffles.

(3) The legislature hereby authorizes any person, association or organization to conduct social card games and to utilize punch boards and pull-tabs as a commercial stimulant when licensed and utilized or operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto.

(4) The legislature hereby authorizes the management of any agricultural fair as authorized under chapters 15.76 and 36.37 RCW to conduct amusement games when licensed and operated pursuant to the provisions of this chapter and rules and regulations adopted pursuant thereto as well as authorizing said amusement games as so licensed and operated to be conducted as a part of and upon the site of:

(a) A civic center of a city with a population of twenty thousand or more persons as of the most recent decennial census of the federal government; or

(b) A worlds fair or similar exposition which is approved by the Bureau of International Expositions at Paris, France; or

(c) A community-wide civic festival held not more than once annually and sponsored or approved by a city or town.

The penalties provided for professional gambling in this chapter, shall not apply to bingo games, raffles, punch boards, pull-tabs, or amusement games when conducted in compliance with the provisions of this chapter and in accordance with the rules and regulations of the commission. [1975 1st ex.s. c 259 § 3; 1974 ex.s. c 155 § 3; 1974 ex.s. c 135 § 3; 1973 1st ex.s. c 218 § 3.]

Severability—1974 ex.s. c 155: See note following RCW 9.46.010.

9.46.070 Gambling commission—Powers and duties. The commission shall have the following powers and duties:

(1) To authorize and issue licenses for a period not to exceed one year to bona fide charitable or nonprofit organizations approved by the commission meeting the

requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said organizations to conduct bingo games, raffles, amusement games, and social card games to utilize punch boards and pull-tabs in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter or any rules and regulations adopted pursuant thereto: *Provided*, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: *Provided further*, That the commission or director shall not issue, deny, suspend or revoke any license because of considerations of race, sex, creed, color, or national origin: *And provided further*, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(2) To authorize and issue licenses for a period not to exceed one year to any person, association or organization approved by the commission meeting the requirements of this chapter and any rules and regulations adopted pursuant thereto permitting said person, association or organization to utilize punch boards and pull-tabs and to conduct social card games as a commercial stimulant in accordance with the provisions of this chapter and any rules and regulations adopted pursuant thereto and to revoke or suspend said licenses for violation of any provisions of this chapter and any rules and regulations adopted pursuant thereto: *Provided*, That the commission shall not deny a license to an otherwise qualified applicant in an effort to limit the number of licenses to be issued: *Provided further*, That the commission may authorize the director to temporarily issue or suspend licenses subject to final action by the commission;

(3) To authorize, require, and issue, for a period not to exceed one year, such licenses as the commission may by rule provide, to any person, association or organization to engage in the selling, distributing, or otherwise supplying or in the manufacturing of devices for use within this state for those activities authorized by RCW 9.46.030 as now or hereafter amended.

(4) To establish a schedule of annual license fees for carrying on specific gambling activities upon the premises, and for such other activities as may be licensed by the commission, which shall provide to the commission not less than an amount of money adequate to cover all costs incurred by the commission relative to licensing under this chapter and the enforcement by the commission of the provisions of this chapter and rules and regulations adopted pursuant thereto: *Provided*, That all licensing fees shall be submitted with an application therefor and not less than fifty percent of any such license fee shall be retained by the commission upon the denial of any such license as its reasonable expense for investigation into the granting thereof: *Provided further*, That the commission may establish fees for the furnishing by it to licensees of identification stamps to be affixed to such devices and equipment as required by the commission and for such other special services or programs required or offered by the commission, the

amount of each of these fees to be not less than is adequate to offset the cost to the commission of the stamps and of administering their dispersal to licensees or the cost of administering such other special services, requirements or programs.

Notwithstanding any other provision of this subsection, raffles may be conducted by any bona fide charitable or nonprofit organization not more than once each year without payment of a license fee if such organization shall not receive in gross receipts therefrom an amount over five thousand dollars.

(5) To require that applications for all licenses contain such information as may be required by the commission: *Provided*, That all persons having a managerial or ownership interest in any gambling activity, or the building in which any gambling activity occurs, or the equipment to be used for any gambling activity, or participating as an employee in the operation of any gambling activity, shall be listed on the application for the license and the applicant shall certify on the application, under oath, that the persons named on the application are all of the persons known to have an interest in any gambling activity, building, or equipment by the person making such application: *Provided further*, That the commission may require fingerprinting and background checks on any persons seeking licenses under this chapter or of any person holding an interest in any gambling activity, building or equipment to be used therefor, or of any person participating as an employee in the operation of any gambling activity;

(6) To require that any license holder maintain records as directed by the commission and submit such reports as the commission may deem necessary;

(7) To require that all income from bingo games, raffles, and amusement games be recorded and reported as established by rule or regulation of the commission to the extent deemed necessary by considering the scope and character of the gambling activity in such a manner that will disclose gross income from any gambling activity, amounts received from each player, the nature and value of prizes, and the fact of distributions of such prizes to the winners thereof;

(8) To regulate and establish maximum limitations on income derived from bingo: *Provided*, That in establishing limitations pursuant to this subsection the commission shall take into account (i) the nature, character and scope of the activities of the licensee; (ii) the source of all other income of the licensee; (iii) the percentage or extent to which income derived from bingo is used for charitable, as distinguished from nonprofit, purposes;

(9) To regulate and establish the type and scope of and manner of conducting social card games permitted to be played, and the extent of wager, money or other thing of value which may be wagered or contributed or won by a player in a social card game;

(10) To regulate and establish a reasonable admission fee which may be imposed by an organization, corporation or person licensed to conduct a social card game on a person desiring to become a player in a social card game. A "reasonable admission fee" under this item shall be limited to a fee which would defray or help to

defray the expenses of the game and which would not be contrary to the purposes of this chapter;

(12) To cooperate with and secure the cooperation of county, city and other local or state agencies in investigating any matter within the scope of its duties and responsibilities;

(13) In accordance with RCW 9.46.080, to adopt such rules and regulations as are deemed necessary to carry out the purposes and provisions of this chapter. All rules and regulations shall be adopted pursuant to the administrative procedure act, chapter 34.04 RCW;

(14) To set forth for the perusal of counties, city-counties, cities and towns, model ordinances by which any legislative authority thereof may enter into the taxing of any gambling activity authorized in RCW 9.46.030 as now or hereafter amended;

(15) To publish and make available at the office of the commission or elsewhere to anyone requesting it a list of the commission licensees, including the name, address, type of license, and license number of each licensee; and

(16) To perform all other matters and things necessary to carry out the purposes and provisions of this chapter. [1975 1st ex.s. c 259 § 4; 1974 ex.s. c 155 § 4; 1974 ex.s. c 135 § 4; 1973 2nd ex.s. c 41 § 4; 1973 1st ex.s. c 218 § 7.]

Reviser's note: Hiatus in subsection numbering results from veto of subsection (11).

Severability—1974 ex.s. c 155: See note following RCW 9.46.010.

Enforcement—Commission as a law enforcement agency: RCW 9.46.210.

9.46.075 Gambling commission—Denial, suspension, or revocation of license, permit—Other provisions not applicable. The commission may deny an application, or suspend or revoke any license or permit issued by it, for any reason or reasons, it deems to be in the public interest. These reasons shall include, but not be limited to, cases wherein the applicant or licensee, or any person with any interest therein:

(1) Has violated, failed or refused to comply with the provisions, requirements, conditions, limitations or duties imposed by chapter 9.46 RCW and any amendments thereto, or any rules adopted by the commission pursuant thereto, or when a violation of any provision of chapter 9.46 RCW, or any commission rule, has occurred upon any premises occupied or operated by any such person or over which he or she has substantial control;

(2) Knowingly causes, aids, abets, or conspires with another to cause, any person to violate any of the laws of this state or the rules of the commission;

(3) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(4) Has been convicted of, or forfeited bond upon a charge of, or pleaded guilty to, forgery, larceny, extortion, conspiracy to defraud, wilful failure to make required payments or reports to a governmental agency at any level, or filing false reports therewith, or of any similar offense or offenses, or of any crime, whether a

felony or misdemeanor involving any gambling activity or involving moral turpitude;

(5) Denies the commission or its authorized representatives, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted or who fails promptly to produce for inspection or audit any book, record, document or item required by law or commission rule;

(6) Shall fail to display its license on the premises where the licensed activity is conducted at all times during the operation of the licensed activity;

(7) Makes a misrepresentation of, or fails to disclose, a material fact to the commission.

For the purpose of reviewing any application for a license and for considering the denial, suspension or revocation of any license the gambling commission may consider any prior criminal conduct of the applicant and the provisions of RCW 9.95.240 and of chapter 9.96A RCW shall not apply to such cases. [1975 1st ex.s. c 166 § 12.]

Severability—1975 1st ex.s. c 166: See note following RCW 9.46.090.

9.46.090 Gambling commission—Reports. The commission shall, from time to time, make reports to the governor covering such matters in connection with this chapter as he may require, and in addition shall prepare and forward to the governor, to be laid before the legislature, a report for the period ending on the thirty-first day of December of 1973, and a report annually thereafter on the thirtieth day of June of each year, which report shall be a public document, and contain a detailed statement and balance sheet showing in general the fiscal condition of the commission and commission expenditures and receipts for the preceding interval, together with such general information and remarks as the commission deems pertinent thereto and any information requested by either the governor or members of the legislature: *Provided*, That the commission appointed pursuant to RCW 9.46.040 shall conduct a thorough study of the types of gambling activity permitted and the types of gambling activity prohibited by this chapter and shall make recommendations to the legislature as to: (1) Gambling activity that ought to be permitted; (2) gambling activity that ought to be prohibited; (3) the types of licenses and permits that ought to be required; (4) the type and amount of tax that ought to be applied to each type of permitted gambling activity; (5) any changes which may be made to the law of this state which further the purposes and policies set forth in RCW 9.46.010 as now law or hereafter amended; and (6) any other matter that the commission may deem appropriate. Members of the commission and its staff may contact the legislature, or any of its members, at any time, to advise it of recommendations of the commission.

The commission shall conduct a thorough study of the effectiveness of the *criminal sections of the act, and penalties imposed thereby, and shall make a separate report to the legislature on or before January 1, 1977, outlining its findings and any recommendation for

specific amendments to these sections it may have. [1975 1st ex.s. c 166 § 4; 1973 1st ex.s. c 218 § 9.]

***Reviser's note:** Phrase "criminal sections of the act" appears in 1975 1st ex.s. c 166 § 4 amendment; for sections of original 1973 act, see Reviser's note following RCW 9.46.010; for sections of the 1975 act, see note below.

Severability—1975 1st ex.s. c 166: "If any provision of this 1975 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." [1975 1st ex.s. c 166 § 15.] This applies to RCW 9.46.075, 9.46.090, 9.46.113, 9.46.130, 9.46.140, 9.46.160, 9.46.210, and 9.46.293.

9.46.113 Taxation of gambling activities—Disbursement. Any county, city or town which collects a tax on gambling activities authorized pursuant to RCW 9.46.110 shall use the revenue from such tax primarily for the purpose of enforcement of the provisions of this chapter by the county, city or town law enforcement agency. [1975 1st ex.s. c 166 § 11.]

Severability—1975 1st ex.s. c 166: See note following RCW 9.46.090.

9.46.130 Inspection and audit of premises, paraphernalia, books and records—Reports for the commission. The premises and paraphernalia, and all the books and records of any person, association or organization conducting gambling activities authorized under RCW 9.46.030 and any person, association or organization receiving profits therefrom or having any interest therein shall be subject to inspection and audit at any reasonable time, with or without notice, upon demand, by the commission or its designee, the attorney general or his designee, the chief of the Washington state patrol or his designee or the prosecuting attorney, sheriff or director of public safety or their designees of the county wherein located, or the chief of police or his designee of any city or town in which said organization is located, for the purpose of determining compliance or noncompliance with the provisions of this chapter and any rules or regulations adopted pursuant thereto.

The commission shall be provided at such reasonable intervals as the commission shall determine with a report, under oath, detailing all receipts and disbursements in connection with such gambling activities together with such other reasonable information as required in order to determine whether such activities comply with the purposes of this chapter or any local ordinances relating thereto. [1975 1st ex.s. c 166 § 7; 1973 1st ex.s. c 218 § 13.]

Severability—1975 1st ex.s. c 166: See note following RCW 9.46.090.

9.46.140 Gambling commission—Hearing and subpoena power—Hearing officers. For the purpose of obtaining information concerning any matter relating to the administration or enforcement of this chapter, the commission, or any person appointed by it in writing for the purpose, may inspect the books, documents and records of any person lending money to or in any manner financing any license holder or applicant for a license or receiving any income or profits from the use of such license for the purpose of determining compliance

or noncompliance with the provisions of this chapter or the rules and regulations adopted pursuant thereto. The commission, or its designee, may conduct hearings, administer oaths, take depositions, compel the attendance of witnesses and issue subpoenas pursuant to RCW 34.04.105. The commission may appoint hearing officers to conduct hearings respecting the suspension, revocation or denial of licenses, who may administer oaths, admit or deny admission of evidence, compel the attendance of witnesses, issue subpoenas, issue orders and exercise all other powers and perform all other functions set out in RCW 34.04.090 (6) and (8), 34.04.100 and 34.04.105. The salaries and expenses of such hearing officers may be paid from any revenues available to the commission. [1975 1st ex.s. c 166 § 8; 1973 1st ex.s. c 218 § 14.]

Severability—1975 1st ex.s. c 166: See note following RCW 9.46.090.

9.46.160 Conducting activity without license as violation—Penalties. Any person who conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission shall be guilty of a felony and upon conviction shall be punished by imprisonment for not more than five years or by a fine of not more than one hundred thousand dollars, or both. If any corporation conducts any activity for which a license is required by this chapter, or by rule of the commission, without the required license issued by the commission, it may be punished by forfeiture of its corporate charter, in addition to the other penalties set forth in this section. [1975 1st ex.s. c 166 § 9; 1973 1st ex.s. c 218 § 16.]

Severability—1975 1st ex.s. c 166: See note following RCW 9.46.090.

9.46.210 Enforcement—Commission as a law enforcement agency. (1) It shall be the duty of and all peace officers or law enforcement officers or law enforcement agencies within this state are hereby empowered to investigate, and enforce and prosecute all violations of this chapter. Law enforcement agencies of cities and counties shall investigate and report to the commission all violations of the provisions of this chapter and of the rules of the commission found by them and shall assist the commission in any of its investigations and proceedings respecting any such violations. Such law enforcement agencies shall not be deemed agents of the commission.

(2) In addition to its other powers and duties, the commission shall have the power to enforce the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession and sale of equipment or paraphernalia used or for use in connection therewith. The director, both assistant directors and each of the investigators and inspectors assigned by the department of motor vehicles to the commission shall have the

power, under the supervision of the commission, to enforce the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power and authority to apply for and execute all warrants and serve process of law issued by the courts in enforcing the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession and sale of equipment or paraphernalia used or for use in connection therewith. They shall have the power to arrest without a warrant, any person or persons found in the act of violating any of the penal provisions of chapter 218, Laws of 1973 1st ex. sess. and as it may be amended, and the penal laws of this state relating to the conduct of or participation in gambling activities and the manufacturing, importation, transportation, distribution, possession and sale of equipment or paraphernalia used or for use in connection therewith. To the extent set forth above, the commission shall be a law enforcement agency of this state with the power to investigate for violations of and to enforce the provisions of this chapter, as now law or hereafter amended, and to obtain information from and provide information to all other law enforcement agencies. [1975 1st ex.s. c 166 § 10; 1974 ex.s. c 155 § 9; 1974 ex.s. c 135 § 9; 1973 1st ex.s. c 218 § 21.]

Reviser's note: For codification of 1973 1st ex. sess. c 218 see note to RCW 9.46.010. The contents of chapter 9.46 RCW through the 1974 ex. sess. derive either from 1973 1st ex. sess. c 218, are amendatory thereof, or have been specifically added thereto.

Severability—1975 1st ex.s. c 166: See note following RCW 9.46.090.

Severability—1974 ex.s. c 155: See note following RCW 9.46.010.

9.46.293 Fishing derbies exempted. Any fishing derby, defined under the provisions of *section 1(7) of this 1975 amendatory act, shall not be subject to any other provisions of **this 1975 amendatory act or to any rules or regulations of the commission. [1975 1st ex.s. c 166 § 13.]

Reviser's note: *(1) "section 1(7) of this 1975 amendatory act" [1975 1st ex.s. c 166 § 1(7)], including the remainder of said section 1, was vetoed by the governor.

** (2) "this 1975 amendatory act" [1975 1st ex.s. c 166] consists of RCW 9.46.075, 9.46.113, 9.46.293, and amendments to RCW 9.46.090, 9.46.130, 9.46.140, 9.46.160, and 9.46.210.

Severability—1975 1st ex.s. c 166: See note following RCW 9.46.090.

Chapter 9.48 HOMICIDE

Sections
9.48.010 through 9.48.170 Repealed. (Effective July 1, 1976.)

[1975 RCW Supp—p 74]

9.48.010 through 9.48.170 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.52 KIDNAPING

Sections
9.52.010 through 9.52.040 Repealed. (Effective July 1, 1976.)

9.52.010 through 9.52.040 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.54 LARCENY

Sections
9.54.010 Repealed. (Effective July 1, 1976.)
9.54.020 through 9.54.080 Repealed. (Effective July 1, 1976.)
9.54.090 Grand larceny—Petit larceny. (Effective until July 1, 1976.)
9.54.100 through 9.54.110 Repealed. (Effective July 1, 1976.)
9.54.115 Larcenous appropriation of livestock—Penalty—Civil action for exemplary damages. (Effective until July 1, 1976.)
9.54.120 Repealed. (Effective July 1, 1976.)
9.54.140 Repealed. (Effective July 1, 1976.)

9.54.010 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Civil action for shoplifting by adults, minors: RCW 4.24.230.

9.54.020 through 9.54.080 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.54.090 Grand larceny—Petit larceny. (Effective until July 1, 1976.) Every person who steals or unlawfully obtains, appropriates, brings into this state, buys, sells, receives, conceals, or withholds in any manner specified in RCW 9.54.010—

(1) Property of any value by taking the same from the person of another or from the body of a corpse; or

(2) Property of any value by taking the same from any building that is on fire or by taking the same after it has been removed from a building in consequence of an alarm of fire; or

(3) A record of a court or officer, or a writing, instrument, or record kept, filed, or deposited according to law with or in the keeping of any public officer or officers; or

(4) Property of the value of more than twenty-five dollars if obtained by color or aid of any order for the payment or delivery of property or money or any check or draft, knowing that the maker or drawer of such order, check, or draft was not authorized or entitled to make or draw the same; or

(5) Property of the value of more than seventy-five dollars, in any manner whatever; shall be guilty of grand larceny and be punished by imprisonment in the state penitentiary for not more than fifteen years.

Every other larceny with the exception of larceny of livestock shall be petit larceny and shall be a gross misdemeanor. [1975 1st ex.s. c 61 § 1; 1955 c 97 § 1; 1909 c 249 § 353; RRS § 2605.]

Contingent repealer—1975 1st ex.s. c 61: "Sections 1 and 2 of this 1975 amendatory act shall take effect as provided by the state Constitution and shall remain in effect until the effective date of the repeal of RCW 9.54.090 and 9.54.115 by section 9A.92.010, chapter — (Substitute Senate Bill No. 2092), Laws of 197_ ex. sess., at which time sections 1 and 2 of this 1975 amendatory act shall also be repealed." [1975 1st ex.s. c 61 § 4.]

Reviser's note: Substitute Senate Bill No. 2092 referred to in the above section was enacted into law as chapter 260, Laws of 1975 1st ex. sess., with an effective date of July 1, 1976. See RCW 9A.04.010.

Certificates of land registration, theft is grand larceny: RCW 65.12.730.

9.54.100 through 9.54.110 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.54.115 Larcenous appropriation of livestock—Penalty—Civil action for exemplary damages. (Effective until July 1, 1976.) Every person who, without lawful authority and with intent to deprive or defraud the owner thereof, wilfully (1) takes, leads or transports away, conceals[,] withholds, slaughters; or (2) otherwise appropriates to his own use, injures, or kills any horse, mule, cow, heifer, bull, or steer, or swine, or sheep, shall be guilty of a felony and shall be punished by imprisonment for not more than fifteen years but not less than one year, or by fine of not more than one thousand dollars but not less than five hundred dollars, or by both such fine or imprisonment: *Provided*, That a person whose conduct is in violation both of this section and of any other law or laws of the state of Washington shall be guilty of a felony and penalized as herein provided. Any owner who suffers damages as a result of a violation of this section may bring a civil action, in any court of competent jurisdiction, to recover exemplary damages up to three times the actual damages sustained. [1975 1st ex.s. c 61 § 2; 1961 c 63 § 1.]

Contingent repealer—1975 1st ex.s. c 61: See note following RCW 9.54.090.

9.54.120 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.54.140 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.55 LEGISLATURE, CRIMES RELATING TO

Sections
9.55.010 Repealed. (Effective July 1, 1976.)

9.55.010 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.61 MALICIOUS MISCHIEF—INJURY TO PROPERTY

Sections
9.61.010 through 9.61.030 Repealed. (Effective July 1, 1976.)
9.61.040 Injury to property—Penalty. (Effective until July 1, 1976.)
9.61.050 through 9.61.110 Repealed. (Effective July 1, 1976.)
9.61.220 Repealed. (Effective July 1, 1976.)

9.61.010 through 9.61.030 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.61.040 Injury to property—Penalty. (Effective until July 1, 1976.) Every person who shall wilfully—

(1) Cut down, destroy or injure any wood, timber, grain, grass or crop, standing or growing, or which has been cut down and is lying upon the lands of another, or of the state; or,

(2) Cut down, girdle or otherwise injure a fruit, shade or ornamental tree standing on the land of another or of the state, or in any road or street; or,

(3) Dig, take or carry away without lawful authority or consent, from any lot or land in any city, or town, or from any lands included within the limits of a street or avenue in such city or town, any earth, soil or stone; or,

(4) Enter without the consent of the owner or occupant, any orchard, garden or vineyard, with intent to take, injure or destroy anything there grown or growing; or,

(5) Cut down, destroy or in any way injure any shrub, tree, vine or garden produce grown or growing within any such orchard, garden or vineyard, or any framework or erection therein; or,

(6) Damage or deface any building or part thereof, or throw any stone or other missile at any building or part thereof; or,

(7) Destroy or damage, with intent to prevent or delay the use thereof, any engine, machine, tool or implement intended for use in trade or husbandry; or,

(8) Untie, unfasten, or liberate, without authority, the horse, cattle or sheep, of another; or lead, ride, or drive away, without authority, the horse, cattle or sheep, from the place where left by the owner or person in charge thereof; or,

Kill, maim or disfigure any animal belonging to another, or expose any poisons or noxious substance with intent that it should be taken by such animal; or,

(9) Take, carry away, interfere with or disturb any oysters or other shellfish of another in any river, bay, or other water of this state, or remove, pull up or destroy any stake or buoy used for designating any oyster bed; or,

(10) Intrude or place any hovel, shanty or building upon or within the limits of any lot or piece of land within any city or town, without the consent of the owner, or within the boundaries of any street in such city or town; or,

(11) Kill, wound or trap any animal or bird within the limits of any cemetery, park or pleasure ground, or remove therefrom or destroy the young of any such animal or the egg of any such bird; or,

(12) Injure, destroy or tamper with any rope, line, cable or chain with which any vessel, scow, boom, beacon or buoy shall be anchored or moored, or the steering gear, bell gear, engine, machinery, lights or other equipment of any vessel; or,

(13) Place upon or affix to any real property or any rock, tree, wall, fence or other structure thereupon, without the consent of the owner thereof, any word, character or device designed to advertise any article, business, profession, exhibition, matter or event; or,

(14) Suffer any animal to go upon the enclosed right-of-way of any railway company, or leave open any gate or bars so that an animal might stray upon such right-of-way;

Shall be guilty of a misdemeanor or, if there is actual physical injury to or destruction of any real or personal property, of property destruction and shall incur the penalties set forth in RCW 9.61.070. [1975 c 28 § 1; 1971 ex.s. c 152 § 5; 1909 c 249 § 407; 1897 c 83 §1; 1891 c 69 §§ 4, 8, 11, 12, 13, 14, 16, 17; 1890 p 127 § 10; 1890 p 122 § 11; 1890 p 126 § 5; Code 1881 §§ 842, 843, 847, 848, 1224; 1877 p 300 § 1; 1862 p 30 § 1; RRS § 2659.]

Reviser's note: RCW 9.61.040 is repealed effective July 1, 1976; See RCW 9A.04.010(1) and RCW 9A.98.010(162).

Cascara bark peeling without permission: RCW 19.08.030.

Cutting permits required: RCW 76.08.030.

Cutting trees in parks or parkways: RCW 43.51.180.

Destroying native flora: RCW 47.40.080.

Taking caught fish or stealing gear: RCW 75.12.090.

9.61.050 through 9.61.110 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.61.220 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.65 MAYHEM

Sections
9.65.010 through 9.65.030 Repealed. (Effective July 1, 1976.)

9.65.010 through 9.65.030 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.68 OBSCENITY

Sections
9.68.130 "Sexually explicit material"—Defined—Unlawful display.

9.68.130 "Sexually explicit material"—Defined—Unlawful display. (1) A person is guilty of unlawful display of sexually explicit material if he knowingly exhibits such material on a viewing screen so that the sexually explicit material is easily visible from a public thoroughfare, park or playground or from one or more family dwelling units.

[1975 RCW Supp—p 76]

(2) "Sexually explicit material" as that term is used in this section means any pictorial material displaying direct physical stimulation of unclothed genitals, masturbation, sodomy (i.e. bestiality or oral or anal intercourse), flagellation or torture in the context of a sexual relationship, or emphasizing the depiction of adult human genitals: *Provided however,* That works of art or of anthropological significance shall not be deemed to be within the foregoing definition.

(3) Any person who violates subsection (1) of this section shall be guilty of a misdemeanor. [1975 1st ex.s. c 156 § 1.]

Chapter 9.69 OBSTRUCTING JUSTICE

Sections
9.69.010 through 9.69.090 Repealed. (Effective July 1, 1976.)

9.69.010 through 9.69.090 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.72 PERJURY

Sections
9.72.010 through 9.72.110 Repealed. (Effective July 1, 1976.)

9.72.010 through 9.72.110 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.75 ROBBERY

Sections
9.75.010 through 9.75.030 Repealed. (Effective July 1, 1976.)

9.75.010 through 9.75.030 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.76 SABBATH BREAKING

Sections
9.76.020 through 9.76.050 Repealed. (Effective July 1, 1976.)

9.76.020 through 9.76.050 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.78 SHOPLIFTING

Sections
9.78.010 Repealed. (Effective July 1, 1976.)
9.78.020 Repealed. (Effective July 1, 1976.)
9.78.040 Repealed. (Effective July 1, 1976.)

9.78.010 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Civil action for shoplifting by adults, minors: RCW 4.24.230.

9.78.020 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.78.040 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.79 SEX CRIMES

Sections	
9.79.010	through 9.79.030 Repealed.
9.79.040	through 9.79.130 Repealed. (Effective July 1, 1976.)
9.79.140	Definitions.
9.79.150	Testimony—Evidence—Written motion—Admissibility.
9.79.160	Defenses to prosecution under this chapter.
9.79.170	Rape in the first degree.
9.79.180	Rape in the second degree.
9.79.190	Rape in the third degree.
9.79.200	Statutory rape in the first degree.
9.79.210	Statutory rape in the second degree.
9.79.220	Statutory rape in the third degree.

9.79.010 through 9.79.030 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.79.040 through 9.79.130 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.79.140 Definitions. As used in this chapter:

(1) "Sexual intercourse" (a) has its ordinary meaning and occurs upon any penetration, however slight, and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes, and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(2) "Married" means one who is legally married to another.

(3) "Mental incapacity" is that condition existing at the time of the offense which prevents a person from understanding the nature or consequences of the act of sexual intercourse whether that condition is produced by illness, defect, the influence of a substance or from some other cause;

(4) "Physically helpless" means a person who is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(5) "Forcible compulsion" means physical force which overcomes resistance, or a threat, express or implied, that places a person in fear of death or physical injury to herself or himself or another person, or in fear that she or he or another person will be kidnaped;

(6) "Consent" means that at the time of the act of sexual intercourse there are actual words or conduct indicating freely given agreement to have sexual intercourse. [1975 1st ex.s. c 14 § 1.]

9.79.150 Testimony—Evidence—Written motion—Admissibility. (1) In order to convict a person of any crime defined in this chapter it shall not be necessary that the testimony of the alleged victim be corroborated.

(2) Evidence of the victim's past sexual behavior including but not limited to the victim's marital history, divorce history, or general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards is inadmissible on the issue of credibility and is inadmissible to prove the victim's consent except as provided in subsection (3) of this section, but when the perpetrator and the victim have engaged in sexual intercourse with each other in the past, and when the past behavior is material to the issue of consent, evidence concerning the past behavior between the perpetrator and the victim may be admissible on the issue of consent to the offense.

(3) In any prosecution for the crime of rape or for an attempt to commit, or an assault with an intent to commit any such crime evidence of the victim's past sexual behavior including but not limited to the victim's marital behavior, divorce history, or general reputation for promiscuity, nonchastity, or sexual mores contrary to community standards is not admissible if offered to attack the credibility of the victim and is admissible on the issue of consent only pursuant to the following procedure:

(a) A written pretrial motion shall be made by the defendant to the court and prosecutor stating that the defense has an offer of proof of the relevancy of evidence of the past sexual behavior of the victim proposed to be presented and its relevancy on the issue of the consent of the victim.

(b) The written motion shall be accompanied by an affidavit or affidavits in which the offer of proof shall be stated.

(c) If the court finds that the offer of proof is sufficient, the court shall order a hearing out of the presence of the jury, if any, and the hearing shall be closed except to the necessary witnesses, the defendant, counsel, and those who have a direct interest in the case or in the work of the court.

(d) At the conclusion of the hearing, if the court finds that the evidence proposed to be offered by the defendant regarding the past sexual behavior of the victim is relevant to the issue of the victim's consent; is not inadmissible because its probative value is substantially outweighed by the probability that its admission will create a substantial danger of undue prejudice; and that its exclusion would result in denial of substantial justice to the defendant; the court shall make an order stating what evidence may be introduced by the defendant, which order may include the nature of the questions to be permitted. The defendant may then offer evidence pursuant to the order of the court.

(4) Nothing in this section shall be construed to prohibit cross-examination of the victim on the issue of past sexual behavior when the prosecution presents evidence in its case in chief tending to prove the nature of the victim's past sexual behavior, but the court may require a hearing pursuant to subsection (3) of this section concerning such evidence. [1975 1st ex.s. c 14 § 2.]

9.79.160 Defenses to prosecution under this chapter.

(1) In any prosecution under this chapter in which lack of consent is based solely upon the victim's mental incapacity or upon the victim's being physically helpless, it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed that the victim was not mentally incapacitated and/or physically helpless.

(2) In any prosecution under this chapter in which the offense or degree of the offense depends on the victim's age, it is no defense that the perpetrator did not know the victim's age, or that the perpetrator believed the victim to be older, as the case may be: *Provided*, That it is a defense which the defendant must prove by a preponderance of the evidence that at the time of the offense the defendant reasonably believed the alleged victim to be older based upon declarations as to age by the alleged victim. [1975 1st ex.s. c 14 § 3.]

9.79.170 Rape in the first degree. (1) A person is guilty of rape in the first degree when such person engages in sexual intercourse with another person not married to the perpetrator by forcible compulsion where the perpetrator or an accessory:

- (a) Uses or threatens to use a deadly weapon; or
- (b) Kidnaps the victim; or
- (c) Inflicts serious physical injury; or
- (d) Feloniously enters into the building or vehicle where the victim is situated.

(2) Rape in the first degree is a felony, and shall be punished by imprisonment in the state penitentiary for a term of not less than twenty years. No person convicted of rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility: *Provided*, That every person convicted of rape in the first degree shall be confined for a minimum of three years: *Provided further*, That the board of prison terms and paroles shall have authority to set a period of confinement greater than three years but shall never reduce the minimum three-year period of confinement nor shall the board release the convicted person during the first three years of confinement as a result of any type of automatic good time calculation nor shall the department of social and health services permit the convicted person to participate in any work release program or furlough program during the first three years of confinement. [1975 1st ex.s. c 247 § 1; 1975 1st ex.s. c 14 § 4.]

9.79.180 Rape in the second degree. (1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the

person engages in sexual intercourse with another person, not married to the perpetrator:

- (a) By forcible compulsion; or
- (b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated.

(2) Rape in the second degree is a felony, and shall be punished by imprisonment in the state penitentiary for not more than ten years. [1975 1st ex.s. c 14 § 5.]

9.79.190 Rape in the third degree. (1) A person is guilty of rape in the third degree when, under circumstances not constituting rape in the first or second degrees, such person engages in sexual intercourse with another person, not married to the perpetrator:

(a) Where the victim did not consent as defined in RCW 9.79.140(6) to sexual intercourse with the perpetrator and such lack of consent was clearly expressed by the victim's words or conduct, or

(b) Where there is threat of substantial unlawful harm to property rights of the victim.

(2) Rape in the third degree is a felony, and shall be punished by imprisonment in the state penitentiary for not more than five years. [1975 1st ex.s. c 14 § 6.]

9.79.200 Statutory rape in the first degree. (1) A person over thirteen years of age is guilty of statutory rape in the first degree when the person engages in sexual intercourse with another person who is less than eleven years old.

(2) Statutory rape in the first degree is a felony, and shall be punished by imprisonment in the state penitentiary for a term of not less than twenty years. No person convicted of statutory rape in the first degree shall be granted a deferred or suspended sentence except for the purpose of commitment to an inpatient treatment facility. [1975 1st ex.s. c 14 § 7.]

9.79.210 Statutory rape in the second degree. (1) A person over sixteen years of age is guilty of statutory rape in the second degree when such person engages in sexual intercourse with another person, not married to the perpetrator, who is eleven years of age or older but less than fourteen years old.

(2) Statutory rape in the second degree is a felony, and shall be punished by imprisonment in the state penitentiary for not more than ten years. [1975 1st ex.s. c 14 § 8.]

9.79.220 Statutory rape in the third degree. (1) A person over eighteen years of age is guilty of statutory rape in the third degree when such person engages in sexual intercourse with another person, not married to the perpetrator, who is fourteen years of age or older but less than sixteen years old.

(2) Statutory rape in the third degree is a felony, and shall be punished by imprisonment in the state penitentiary for not more than five years. [1975 1st ex.s. c 14 § 9.]

Chapter 9.80 SUICIDE

Sections	
9.80.010	Repealed. (Effective July 1, 1976.)
9.80.020	Repealed.
9.80.030	through 9.80.050 Repealed. (Effective July 1, 1976.)

9.80.010 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.80.020 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.80.030 through 9.80.050 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.83 TRESPASS

Sections	
9.83.010	through 9.83.080 Repealed. (Effective July 1, 1976.)

9.83.010 through 9.83.080 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.87 VAGRANCY

Sections	
9.87.010	through 9.87.030 Repealed. (Effective July 1, 1976.)

9.87.010 through 9.87.030 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.91 MISCELLANEOUS CRIMES

Sections	
9.91.040	Repealed. (Effective July 1, 1976.)
9.91.070	through 9.91.080 Repealed. (Effective July 1, 1976.)

9.91.040 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

9.91.070 through 9.91.080 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.94 PRISONERS—STATE PENAL INSTITUTIONS

Sections	
9.94.060	Repealed. (Effective July 1, 1976.)

9.94.060 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 9.95 PRISON TERMS, PAROLES AND PROBATION

Sections	
9.95.240	Dismissal of information or indictment after probation completed.

9.95.240 Dismissal of information or indictment after probation completed.

Gambling commission—Denial, suspension, or revocation of license, permit—Other provisions not applicable: RCW 9.46.075.

Chapter 9.96A RESTORATION OF EMPLOYMENT RIGHTS

Gambling commission—Denial, suspension, or revocation of license, permit—Other provisions not applicable: RCW 9.46.075.

Title 9A WASHINGTON CRIMINAL CODE (Effective July 1, 1976)

Chapters

- 9A.04 Preliminary article.
- 9A.08 Principles of liability.
- 9A.12 Insanity.
- 9A.16 Defenses.
- 9A.20 Classification of crimes.
- 9A.28 Anticipatory offenses.
- 9A.32 Homicide.
- 9A.36 Assault and other crimes involving physical harm.
- 9A.40 Kidnaping, unlawful imprisonment, and custodial interference.
- 9A.48 Arson, reckless burning, and malicious mischief.
- 9A.52 Burglary and trespass.
- 9A.56 Theft and robbery.
- 9A.60 Fraud.
- 9A.64 Family offenses.
- 9A.68 Bribery and corrupt influence.
- 9A.72 Perjury and interference with official proceedings.
- 9A.76 Obstructing governmental operation.
- 9A.80 Abuse of office.
- 9A.84 Public disturbance.
- 9A.88 Public indecency—Prostitution—Sex crimes.
- 9A.98 Laws repealed.

Chapter 9A.04 PRELIMINARY ARTICLE

Sections	
9A.04.010	Title, effective date, application, severability, captions.
9A.04.020	Purposes—Principles of construction.
9A.04.030	State criminal jurisdiction.
9A.04.040	Classes of crimes.
9A.04.050	People capable of committing crimes—Capability of children.
9A.04.060	Common law to supplement statute.
9A.04.070	Who amenable to criminal statutes.
9A.04.080	Limitation of actions.
9A.04.090	Application of general provisions of the code.

9A.04.100 Proof beyond a reasonable doubt.
9A.04.110 Definitions.

9A.04.010 Title, effective date, application, severability, captions. (1) This title shall be known and may be cited as the Washington Criminal Code and shall become effective on July 1, 1976.

(2) The provisions of this title shall apply to any offense committed on or after July 1, 1976, which is defined in this title or the general statutes, unless otherwise expressly provided or unless the context otherwise requires, and shall also apply to any defense to prosecution for such an offense.

(3) The provisions of this title do not apply to or govern the construction of and punishment for any offense committed prior to July 1, 1976, or to the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this title had not been enacted.

(4) 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, and to this end the provisions of this title are declared to be severable.

(5) Chapter, section, and subsection captions are for organizational purposes only and shall not be construed as part of this title. [1975 1st ex.s. c 260 § 9A.04.010.]

Legislative direction for codification—1975 1st ex.s. c 260: "The provisions of this act shall constitute a new Title in the Revised Code of Washington to be designated as Title 9A RCW." [1975 1st ex.s. c 260 § 9A.92.900.]

9A.04.020 Purposes—Principles of construction. (1) The general purposes of the provisions governing the definition of offenses are:

(a) To forbid and prevent conduct that inflicts or threatens substantial harm to individual or public interests;

(b) To safeguard conduct that is without culpability from condemnation as criminal;

(c) To give fair warning of the nature of the conduct declared to constitute an offense;

(d) To differentiate on reasonable grounds between serious and minor offenses, and to prescribe proportionate penalties for each.

(2) The provisions of this title shall be construed according to the fair import of their terms but when the language is susceptible of differing constructions it shall be interpreted to further the general purposes stated in this title. [1975 1st ex.s. c 260 § 9A.04.020.]

9A.04.030 State criminal jurisdiction. The following persons are liable to punishment:

(1) A person who commits in the state any crime, in whole or in part.

(2) A person who commits out of the state any act which, if committed within it, would be theft and is afterward found in the state with any of the stolen property.

(3) A person who being out of the state, counsels, causes, procures, aids, or abets another to commit a crime in this state.

(4) A person who, being out of the state, abducts or kidnaps by force or fraud, any person, contrary to the laws of the place where the act is committed, and brings, sends, or conveys such person into this state.

(5) A person who commits an act without the state which affects persons or property within the state, which, if committed within the state, would be a crime. [1975 1st ex.s. c 260 § 9A.04.030.]

9A.04.040 Classes of crimes. (1) An offense defined by this title or by any other statute of this state, for which a sentence of imprisonment is authorized, constitutes a crime. Crimes are classified as felonies, gross misdemeanors, or misdemeanors.

(2) A crime is a felony if it is so designated in this title or by any other statute of this state or if persons convicted thereof may be sentenced to imprisonment for a term in excess of one year. A crime is a misdemeanor if it is so designated in this title or by any other statute of this state or if persons convicted thereof may be sentenced to imprisonment for no more than ninety days. Every other crime is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.04.040.]

9A.04.050 People capable of committing crimes—Capability of children. Children under the age of eight years are incapable of committing crime. Children of eight and under twelve years of age are presumed to be incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Whenever in legal proceedings it becomes necessary to determine the age of a child, he may be produced for inspection, to enable the court or jury to determine the age thereby; and the court may also direct his examination by one or more physicians, whose opinion shall be competent evidence upon the question of his age. [1975 1st ex.s. c 260 § 9A.04.050.]

9A.04.060 Common law to supplement statute. The provisions of the common law relating to the commission of crime and the punishment thereof, insofar as not inconsistent with the Constitution and statutes of this state, shall supplement all penal statutes of this state and all persons offending against the same shall be tried in the courts of this state having jurisdiction of the offense. [1975 1st ex.s. c 260 § 9A.04.060.]

9A.04.070 Who amenable to criminal statutes. Every person, regardless of whether or not he is an inhabitant of this state, may be tried and punished under the laws of this state for an offense committed by him therein, except when such offense is cognizable exclusively in the courts of the United States. [1975 1st ex.s. c 260 § 9A.04.070.]

9A.04.080 Limitation of actions. Prosecutions for the offenses of murder, and arson where death ensues, may be commenced at any period after the commission of

the offense; for offenses the punishment of which may be imprisonment in a state correctional institution, committed by any public officer in connection with the duties of his office or constituting a breach of his public duty or a violation of his oath of office, within ten years after their commission; for all other offenses the punishment of which may be imprisonment in a state correctional institution, within three years after their commission; two years for gross misdemeanors; and for all other offenses, within one year after their commission: *Provided*, That any length of time during which the party charged was not usually and publicly resident within this state shall not be reckoned within the one, two, three, and ten years respectively: *And further provided*, That where an indictment has been found, or complaint or an information filed, within the time limited for the commencement of a criminal action, if the indictment, complaint or information be set aside, the time of limitation shall be extended by the length of time from the time of filing of such indictment, complaint, or information, to the time such indictment, complaint, or information was set aside. [1975 1st ex.s. c 260 § 9A.04.080.]

9A.04.090 Application of general provisions of the code. The provisions of chapters 9A.04 through 9A.28 of this title are applicable to offenses defined by this title or another statute, unless this title or such other statute specifically provides otherwise. [1975 1st ex.s. c 260 § 9A.04.090.]

9A.04.100 Proof beyond a reasonable doubt. (1) Every person charged with the commission of a crime is presumed innocent unless proved guilty. No person may be convicted of a crime unless each element of such crime is proved by competent evidence beyond a reasonable doubt.

(2) When a crime has been proven against a person, and there exists a reasonable doubt as to which of two or more degrees he is guilty, he shall be convicted only of the lowest degree. [1975 1st ex.s. c 260 § 9A.04.100.]

9A.04.110 Definitions. In this title unless a different meaning plainly is required:

- (1) "Acted" includes, where relevant, omitted to act;
- (2) "Actor" includes, where relevant, a person failing to act;
- (3) "Benefit" is any gain or advantage to the beneficiary, including any gain or advantage to a third person pursuant to the desire or consent of the beneficiary;
- (4) "Bodily injury" or "physical injury" means physical pain, illness, or an impairment of physical condition;
- (5) "Building", in addition to its ordinary meaning, includes any dwelling, fenced area, vehicle, railway car, cargo container, or any other structure used for lodging of persons or for carrying on business therein, or for the use, sale or deposit of goods; each unit of a building consisting of two or more units separately secured or occupied is a separate building;

(6) "Deadly weapon" means any explosive or loaded or unloaded firearm, and shall include any other weapon, device, instrument, article, or substance, including a "vehicle" as defined in this section, which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious bodily injury;

(7) "Dwelling" means any building or structure, though movable or temporary, or a portion thereof, which is used or ordinarily used by a person for lodging;

(8) "Government" includes any branch, subdivision, or agency of the government of this state and any county, city, district, or other local governmental unit;

(9) "Governmental function" includes any activity which a public servant is legally authorized or permitted to undertake on behalf of a government;

(10) "Indicted" and "indictment" include "informed against" and "information", and "informed against" and "information" include "indicted" and "indictment";

(11) "Judge" includes every judicial officer authorized alone or with others, to hold or preside over a court;

(12) "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty;

(13) "Officer" and "public officer" means a person holding office under a city, county, or state government, or the federal government who performs a public function and in so doing is vested with the exercise of some sovereign power of government, and includes all assistants, deputies, clerks, and employees of any public officer and all persons lawfully exercising or assuming to exercise any of the powers or functions of a public officer;

(14) "Omission" means a failure to act;

(15) "Peace officer" means a duly appointed city, county, or state law enforcement officer;

(16) "Pecuniary benefit" means any gain or advantage in the form of money, property, commercial interest, or anything else the primary significance of which is economic gain;

(17) "Person", "he", and "actor" include any natural person and, where relevant, a corporation, joint stock association, or an unincorporated association;

(18) "Place of work" includes but is not limited to all the lands and other real property of a farm or ranch in the case of an actor who owns, operates, or is employed to work on such a farm or ranch;

(19) "Prison" means any place designated by law for the keeping of persons held in custody under process of law, or under lawful arrest, including but not limited to any state correctional institution or any county or city jail;

(20) "Prisoner" includes any person held in custody under process of law, or under lawful arrest;

(21) "Property" means anything of value, whether tangible or intangible, real or personal;

(22) "Public servant" means any person other than a witness who presently occupies the position of or has been elected, appointed, or designated to become any officer or employee of government, including a legislator, judge, judicial officer, juror, and any person participating as an advisor, consultant, or otherwise in performing a governmental function;

(23) "Signature" includes any memorandum, mark, or sign made with intent to authenticate any instrument or writing, or the subscription of any person thereto;

(24) "Statute" means the Constitution or an act of the legislature or initiative or referendum of this state;

(25) "Threat" means to communicate, directly or indirectly the intent:

(a) To cause bodily injury in the future to the person threatened or to any other person; or

(b) To cause physical damage to the property of a person other than the actor; or

(c) To subject the person threatened or any other person to physical confinement or restraint; or

(d) To accuse any person of a crime or cause criminal charges to be instituted against any person; or

(e) To expose a secret or publicize an asserted fact, whether true or false, tending to subject any person to hatred, contempt, or ridicule; or

(f) To reveal any information sought to be concealed by the person threatened; or

(g) To testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(h) To take wrongful action as an official against anyone or anything, or wrongfully withhold official action, or cause such action or withholding; or

(i) To bring about or continue a strike, boycott, or other similar collective action to obtain property which is not demanded or received for the benefit of the group which the actor purports to represent; or

(j) To do any other act which is intended to harm substantially the person threatened or another with respect to his health, safety, business, financial condition, or personal relationships.

(26) "Vehicle" means a "motor vehicle" as defined in the vehicle and traffic laws, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail;

(27) Words in the present tense shall include the future tense; and in the masculine shall include the feminine and neuter genders; and in the singular shall include the plural; and in the plural shall include the singular. [1975 1st ex.s. c 260 § 9A.04.110.]

Chapter 9A.08 PRINCIPLES OF LIABILITY

Sections

9A.08.010	General requirements of culpability.
9A.08.020	Liability for conduct of another—Complicity.
9A.08.030	Criminal liability of corporations and persons acting or under a duty to act in their behalf.

9A.08.010 General requirements of culpability. (1) Kinds of Culpability Defined.

(a) *Intent*. A person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes a crime.

(b) *Knowledge*. A person knows or acts knowingly or with knowledge when:

(i) he is aware of a fact, facts, or circumstances or result described by a statute defining an offense; or

(ii) he has information which would lead a reasonable man in the same situation to believe that facts exist which facts are described by a statute defining an offense.

(c) *Recklessness*. A person is reckless or acts recklessly when he knows of and disregards a substantial risk that a wrongful act may occur and his disregard of such substantial risk is a gross deviation from conduct that a reasonable man would exercise in the same situation.

(d) *Criminal negligence*. A person is criminally negligent or acts with criminal negligence when he fails to be aware of a substantial risk that a wrongful act may occur and his failure to be aware of such substantial risk constitutes a gross deviation from the standard of care that a reasonable man would exercise in the same situation.

(2) Substitutes for Criminal Negligence, Recklessness, and Knowledge. When a statute provides that criminal negligence suffices to establish an element of an offense, such element also is established if a person acts intentionally, knowingly, or recklessly. When recklessness suffices to establish an element, such element also is established if a person acts intentionally or knowingly. When acting knowingly suffices to establish an element, such element also is established if a person acts intentionally.

(3) Culpability as Determinant of Grade of Offense. When the grade or degree of an offense depends on whether the offense is committed intentionally, knowingly, recklessly, or with criminal negligence, its grade or degree shall be the lowest for which the determinative kind of culpability is established with respect to any material element of the offense.

(4) Requirement of Wilfulness Satisfied by Acting Knowingly. A requirement that an offense be committed wilfully is satisfied if a person acts knowingly with respect to the material elements of the offense, unless a purpose to impose further requirements plainly appears. [1975 1st ex.s. c 260 § 9A.08.010.]

9A.08.020 Liability for conduct of another—Complicity. (1) A person is guilty of a crime if it is committed by the conduct of another person for which he is legally accountable.

(2) A person is legally accountable for the conduct of another person when:

(a) Acting with the kind of culpability that is sufficient for the commission of the crime, he causes an innocent or irresponsible person to engage in such conduct; or

(b) He is made accountable for the conduct of such other person by this title or by the law defining the crime; or

(c) He is an accomplice of such other person in the commission of the crime.

(3) A person is an accomplice of another person in the commission of a crime if:

(a) With knowledge that it will promote or facilitate the commission of the crime, he

(i) solicits, commands, encourages, or requests such other person to commit it; or

(ii) aids or agrees to aid such other person in planning or committing it; or

(b) His conduct is expressly declared by law to establish his complicity.

(4) A person who is legally incapable of committing a particular crime himself may be guilty thereof if it is committed by the conduct of another person for which he is legally accountable, unless such liability is inconsistent with the purpose of the provision establishing his incapacity.

(5) Unless otherwise provided by this title or by the law defining the crime, a person is not an accomplice in a crime committed by another person if:

(a) He is a victim of that crime; or

(b) He terminates his complicity prior to the commission of the crime and gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the crime.

(6) A person legally accountable for the conduct of another person may be convicted on proof of the commission of the crime and of his complicity therein, though the person claimed to have committed the crime has not been prosecuted or convicted or has been convicted of a different crime or degree of crime or has an immunity to prosecution or conviction or has been acquitted. [1975 1st ex.s. c 260 § 9A.08.020.]

9A.08.030 Criminal liability of corporations and persons acting or under a duty to act in their behalf. (1) As used in this section:

(a) "Agent" means any director, officer, or employee of a corporation, or any other person who is authorized to act on behalf of the corporation;

(b) "Corporation" includes a joint stock association;

(c) "High managerial agent" means an officer or director of a corporation or any other agent in a position of comparable authority with respect to the formulation of corporate policy or the supervision in a managerial capacity of subordinate employees.

(2) A corporation is guilty of an offense when:

(a) The conduct constituting the offense consists of an omission to discharge a specific duty of performance imposed on corporations by law; or

(b) The conduct constituting the offense is engaged in, authorized, solicited, requested, commanded, or tolerated by the board of directors or by a high managerial agent acting within the scope of his employment and on behalf of the corporation; or

(c) The conduct constituting the offense is engaged in by an agent of the corporation, other than a high managerial agent, while acting within the scope of his employment and in behalf of the corporation and (i) the offense is a gross misdemeanor or misdemeanor, or (ii) the offense is one defined by a statute which clearly indicates a legislative intent to impose such criminal liability on a corporation.

(3) A person is criminally liable for conduct constituting an offense which he performs or causes to be performed in the name of or on behalf of a corporation to the same extent as if such conduct were performed in his own name or behalf.

(4) Whenever a duty to act is imposed by law upon a corporation, any agent of the corporation who knows he has or shares primary responsibility for the discharge of the duty is criminally liable for a reckless or, if a high managerial agent, criminally negligent omission to perform the required act to the same extent as if the duty were by law imposed directly upon such agent.

(5) Every corporation, whether foreign or domestic, which shall violate any provision of RCW 9A.28.040, shall forfeit every right and franchise to do business in this state. The attorney general shall begin and conduct all actions and proceedings necessary to enforce the provisions of this subsection. [1975 1st ex.s. c 260 § 9A.08.030.]

**Chapter 9A.12
INSANITY**

Sections
9A.12.010 Insanity.

9A.12.010 Insanity. To establish the defense of insanity, it must be shown that:

(1) At the time of the commission of the offense, as a result of mental disease or defect, the mind of the actor was affected to such an extent that:

(a) He was unable to perceive the nature and quality of the act with which he is charged; or

(b) He was unable to tell right from wrong with reference to the particular act charged.

(2) The defense of insanity must be established by a preponderance of the evidence. [1975 1st ex.s. c 260 § 9A.12.010.]

**Chapter 9A.16
DEFENSES**

Sections
9A.16.010 Definitions.
9A.16.020 Use of force—When lawful.
9A.16.030 Homicide—When excusable.
9A.16.040 Justifiable homicide by public officer.
9A.16.050 Homicide—By other person—When justifiable.
9A.16.060 Duress.
9A.16.070 Entrapment.
9A.16.080 Action for being detained on mercantile establishment premises for investigation—"Reasonable grounds" as defense.
9A.16.090 Intoxication.

9A.16.010 Definitions. In this chapter, unless a different meaning is plainly required:

"Necessary" means that no reasonably effective alternative to the use of force appeared to exist and that the amount of force used was reasonable to effect the lawful purpose intended. [1975 1st ex.s. c 260 § 9A.16.010.]

9A.16.020 Use of force—When lawful. The use, attempt, or offer to use force upon or toward the person of another shall not be unlawful in the following cases:

(1) Whenever necessarily used by a public officer in the performance of a legal duty, or a person assisting him and acting under his direction;

(2) Whenever necessarily used by a person arresting one who has committed a felony and delivering him to a public officer competent to receive him into custody;

(3) Whenever used by a party about to be injured, or by another lawfully aiding him, in preventing or attempting to prevent an offense against his person, or a malicious trespass, or other malicious interference with real or personal property lawfully in his possession, in case the force is not more than shall be necessary;

(4) Whenever used in a reasonable and moderate manner by a parent or his authorized agent, a guardian, master, or teacher in the exercise of lawful authority, to restrain or correct his child, ward, apprentice, or scholar;

(5) Whenever used by a carrier of passengers or his authorized agent or servant, or other person assisting them at their request in expelling from a carriage, railway car, vessel, or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force used is not more than shall be necessary to expel the offender with reasonable regard to his personal safety;

(6) Whenever used by any person to prevent a mentally retarded person or a mentally ill person from committing an act dangerous to himself or another, or in enforcing necessary restraint for the protection of his person, or his restoration to health, during such period only as shall be necessary to obtain legal authority for the restraint or custody of his person. [1975 1st ex.s. c 260 § 9A.16.020.]

9A.16.030 Homicide—When excusable. Homicide is excusable when committed by accident or misfortune in doing any lawful act by lawful means, with ordinary caution and without any unlawful intent. [1975 1st ex.s. c 260 § 9A.16.030.]

9A.16.040 Justifiable homicide by public officer. Homicide is justifiable when committed by a public officer, or person acting under his command and in his aid, in the following cases:

(1) In obedience to the judgment of a competent court.

(2) When necessary to overcome actual resistance to the execution of the legal process, mandate, or order of a court or officer, or in the discharge of a legal duty.

(3) When necessary in retaking an escaped or rescued prisoner who has been committed, arrested for, or convicted of a felony; or in arresting a person who has committed a felony and is fleeing from justice; or in attempting, by lawful ways or means, to apprehend a person for a felony actually committed; or in lawfully suppressing a riot or preserving the peace. [1975 1st ex.s. c 260 § 9A.16.040.]

9A.16.050 Homicide—By other person—When justifiable. Homicide is also justifiable when committed either:

(1) In the lawful defense of the slayer, or his or her husband, wife, parent, child, brother, or sister, or of any other person in his presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished; or

(2) In the actual resistance of an attempt to commit a felony upon the slayer, in his presence, or upon or in a dwelling, or other place of abode, in which he is. [1975 1st ex.s. c 260 § 9A.16.050.]

9A.16.060 Duress. (1) In any prosecution for a crime, it is a defense that:

(a) The actor participated in the crime under compulsion by another who by threat or use of force created an apprehension in the mind of the actor that in case of refusal he or another would be liable to immediate death or immediate grievous bodily injury; and

(b) That such apprehension was reasonable upon the part of the actor; and

(c) That the actor would not have participated in the crime except for the duress involved.

(2) The defense of duress is not available if the crime charged is murder or manslaughter.

(3) The defense of duress is not available if the actor intentionally or recklessly places himself in a situation in which it is probable that he will be subject to duress.

(4) The defense of duress is not established solely by a showing that a married person acted on the command of his or her spouse. [1975 1st ex.s. c 260 § 9A.16.060.]

9A.16.070 Entrapment. (1) In any prosecution for a crime, it is a defense that:

(a) The criminal design originated in the mind of law enforcement officials, or any person acting under their direction, and

(b) The actor was lured or induced to commit a crime which the actor had not otherwise intended to commit.

(2) The defense of entrapment is not established by a showing only that law enforcement officials merely afforded the actor an opportunity to commit a crime. [1975 1st ex.s. c 260 § 9A.16.070.]

9A.16.080 Action for being detained on mercantile establishment premises for investigation—"Reasonable grounds" as defense. In any criminal action brought by reason of any person having been detained on or in the

immediate vicinity of the premises of a mercantile establishment for the purpose of investigation or questioning as to the ownership of any merchandise, it shall be a defense of such action that the person was detained in a reasonable manner and for not more than a reasonable time to permit such investigation or questioning by a peace officer, by the owner of the mercantile establishment, or by the owner's authorized employee or agent, and that such peace officer, owner, employee, or agent had reasonable grounds to believe that the person so detained was committing or attempting to commit theft or shoplifting on such premises of such merchandise. As used in this section, "reasonable grounds" shall include, but not be limited to, knowledge that a person has concealed possession of unpurchased merchandise of a mercantile establishment, and a "reasonable time" shall mean the time necessary to permit the person detained to make a statement or to refuse to make a statement, and the time necessary to examine employees and records of the mercantile establishment relative to the ownership of the merchandise. [1975 1st ex.s. c 260 § 9A.16.080.]

9A.16.090 Intoxication. No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his condition, but whenever the actual existence of any particular mental state is a necessary element to constitute a particular species or degree of crime, the fact of his intoxication may be taken into consideration in determining such mental state. [1975 1st ex.s. c 260 § 9A.16.090.]

Chapter 9A.20 CLASSIFICATION OF CRIMES

Sections

9A.20.010	Classification and designation of crimes.
9A.20.020	Authorized sentences of offenders.
9A.20.030	Alternative to a fine—Restitution.
9A.20.040	Prosecutions related to felonies defined outside Title 9A RCW.

9A.20.010 Classification and designation of crimes.

(1) Classified Felonies. (a) The particular classification of each felony defined in Title 9A RCW is expressly designated in the section defining it.

(b) For purposes of sentencing, classified felonies are designated as one of three classes, as follows:

- (i) Class A felony; or
- (ii) Class B felony; or
- (iii) Class C felony.

(2) Misdemeanors and Gross Misdemeanors. (a) Any crime punishable by a fine of not more than five hundred dollars, or by imprisonment in a county jail for not more than ninety days, or by both such fine and imprisonment is a misdemeanor. Whenever the performance of any act is prohibited by any statute, and no penalty for the violation of such statute is imposed, the committing of such act shall be a misdemeanor.

(b) All crimes other than felonies and misdemeanors are gross misdemeanors. [1975 1st ex.s. c 260 § 9A.20.010.]

9A.20.020 Authorized sentences of offenders. (1) Felony. Every person convicted of a classified felony shall be punished as follows:

(a) For a class A felony, by imprisonment in a state correctional institution for a maximum term fixed by the court of not less than twenty years or by a fine of not more than ten thousand dollars or by both such imprisonment and fine;

(b) For a class B felony, by imprisonment in a state correctional institution for a maximum term fixed by the court of not more than ten years or by a fine of not more than ten thousand dollars or by both such imprisonment and fine;

(c) For a class C felony, by imprisonment in a state correctional institution for a maximum term fixed by the court of not more than five years or by a fine of not more than five thousand dollars or by both such imprisonment and fine.

(2) Gross Misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than one year or by a fine of not more than one thousand dollars or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days or by a fine of not more than five hundred dollars or by both such imprisonment and fine. [1975 1st ex.s. c 260 § 9A.20.020.]

9A.20.030 Alternative to a fine—Restitution. (1) If a person has gained money or property or caused a victim to lose money or property through the commission of a crime, upon conviction thereof the court, in lieu of imposing the fine authorized for the offense under RCW 9A.20.020, may order the defendant to pay an amount, fixed by the court, not to exceed double the amount of the defendant's gain or victim's loss from the commission of a crime. Such amount may be used to provide restitution to the victim at the order of the court. In such case the court shall make a finding as to the amount of the defendant's gain or victim's loss from the crime, and if the record does not contain sufficient evidence to support such finding the court may conduct a hearing upon the issue. For purposes of this section, the terms "gain" or "loss" refer to the amount of money or the value of property or services gained or lost.

(2) Notwithstanding any other provision of law, this section also applies to any corporation or joint stock association found guilty of any crime. [1975 1st ex.s. c 260 § 9A.20.030.]

9A.20.040 Prosecutions related to felonies defined outside Title 9A RCW. In any prosecution under this title where the grade or degree of a crime is determined by reference to the degree of a felony for which the defendant or another previously had been sought, arrested, charged, convicted, or sentenced, if such felony is defined by a statute of this state which is not in Title 9A RCW, unless otherwise provided:

(1) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is twenty years or more, such felony shall be treated as a class A felony for purposes of this title;

(2) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is eight years or more, but less than twenty years, such felony shall be treated as a class B felony for purposes of this title;

(3) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is less than eight years, such felony shall be treated as a class C felony for purposes of this title. [1975 1st ex.s. c 260 § 9A.20.040.]

Chapter 9A.28 ANTICIPATORY OFFENSES

Sections

9A.28.010	Prosecutions based on felonies defined outside Title 9A RCW.
9A.28.020	Criminal attempt.
9A.28.030	Criminal solicitation.
9A.28.040	Criminal conspiracy.

9A.28.010 Prosecutions based on felonies defined outside Title 9A RCW. In any prosecution under this title for attempt, solicitation, or conspiracy to commit a felony defined by a statute of this state which is not in this title, unless otherwise provided:

(1) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is twenty years or more, such felony shall be treated as a class A felony for purposes of this title;

(2) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is eight years or more but less than twenty years, such felony shall be treated as a class B felony for purposes of this title;

(3) If the maximum sentence of imprisonment authorized by law upon conviction of such felony is less than eight years, such felony shall be treated as a class C felony for purposes of this title. [1975 1st ex.s. c 260 § 9A.28.010.]

9A.28.020 Criminal attempt. (1) A person is guilty of an attempt to commit crime if, with intent to commit a specific crime, he does any act which is a substantial step toward the commission of that crime.

(2) If the conduct in which a person engages otherwise constitutes an attempt to commit a crime, it is no defense to a prosecution of such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission.

(3) An attempt to commit a crime is a:

(a) Class A felony when the crime attempted is murder in the first degree;

(b) Class B felony when the crime attempted is a class A felony other than murder in the first degree;

(c) Class C felony when the crime attempted is a class B felony;

(d) Gross misdemeanor when the crime attempted is a class C felony;

(e) Misdemeanor when the crime attempted is a gross misdemeanor or misdemeanor. [1975 1st ex.s. c 260 § 9A.28.020.]

9A.28.030 Criminal solicitation. (1) A person is guilty of criminal solicitation when, with intent to promote or facilitate the commission of a crime, he offers to give or gives money or other thing of value to another to engage in specific conduct which would constitute such crime or which would establish complicity of such other person in its commission or attempted commission had such crime been attempted or committed.

(2) Criminal solicitation shall be punished in the same manner as criminal attempt under RCW 9A.28.020. [1975 1st ex.s. c 260 § 9A.28.030.]

9A.28.040 Criminal conspiracy. (1) A person is guilty of criminal conspiracy when, with intent that conduct constituting a crime be performed, he agrees with one or more persons to engage in or cause the performance of such conduct, and any one of them takes a substantial step in pursuance of such agreement.

(2) It shall not be a defense to criminal conspiracy that the person or persons with whom the accused is alleged to have conspired:

- (a) Has not been prosecuted or convicted; or
- (b) Has been convicted of a different offense; or
- (c) Is not amenable to justice; or
- (d) Has been acquitted; or
- (e) Lacked the capacity to commit an offense.

(3) Criminal conspiracy is a:

- (a) Class A felony when an object of the conspiratorial agreement is murder in the first degree;
- (b) Class B felony when an object of the conspiratorial agreement is a class A felony other than murder in the first degree;

(c) Class C felony when an object of the conspiratorial agreement is a class B felony;

(d) Gross misdemeanor when an object of the conspiratorial agreement is a class C felony;

(e) Misdemeanor when an object of the conspiratorial agreement is a gross misdemeanor or misdemeanor. [1975 1st ex.s. c 260 § 9A.28.040.]

Chapter 9A.32 HOMICIDE

Sections

9A.32.010	Homicide defined.
9A.32.020	Premeditation—Limitations.
9A.32.030	Murder in the first degree.
9A.32.040	Murder in the first degree—Sentence.
9A.32.045	Aggravated murder in the first degree.
9A.32.046	Aggravated murder in the first degree—Penalty.
9A.32.047	Aggravated murder in the first degree—Life imprisonment.
9A.32.050	Murder in the second degree.
9A.32.060	Manslaughter in the first degree.
9A.32.070	Manslaughter in the second degree.
9A.32.900	Severability—Initiative No. 316.
9A.32.901	Section captions—Initiative No. 316.

9A.32.010 Homicide defined. Homicide is the killing of a human being by the act, procurement or omission of another and is either (1) murder, (2) manslaughter, (3) excusable homicide, or (4) justifiable homicide. [1975 1st ex.s. c 260 § 9A.32.010.]

Excusable homicide: RCW 9A.16.030.

Justifiable homicide: RCW 9A.16.040 and 9A.16.050.

9A.32.020 Premeditation—Limitations. (1) As used in this chapter, the premeditation required in order to support a conviction of the crime of murder in the first degree must involve more than a moment in point of time.

(2) Nothing contained in this chapter shall affect RCW 46.61.520. [1975 1st ex.s. c 260 § 9A.32.020.]

9A.32.030 Murder in the first degree. (1) A person is guilty of murder in the first degree when:

(a) With a premeditated intent to cause the death of another person, he causes the death of such person or of a third person; or

(b) Under circumstances manifesting an extreme indifference to human life, he engages in conduct which creates a grave risk of death to any person, and thereby causes the death of a person; or

(c) He commits or attempts to commit the crime of either (1) robbery, in the first or second degree, (2) rape in the first or second degree, (3) burglary in the first degree, (4) arson in the first degree, or (5) kidnaping, in the first or second degree, and, in the course of and in furtherance of such crime or in immediate flight therefrom, he, or another participant, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision (1)(c) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:

(i) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and

(ii) Was not armed with a deadly weapon, or any instrument, article, or substance readily capable of causing death or serious physical injury; and

(iii) Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article, or substance; and

(iv) Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

(2) Murder in the first degree is a class A felony. [1975 1st ex.s. c 260 § 9A.32.030.]

9A.32.040 Murder in the first degree—Sentence. Notwithstanding RCW 9A.32.030(2), any person convicted of the crime of murder in the first degree shall be sentenced to life imprisonment. [1975 1st ex.s. c 260 § 9A.32.040.]

9A.32.045 Aggravated murder in the first degree. A person is guilty of aggravated murder in the first degree when he commits murder in the first degree as defined

in RCW 9A.32.030 under or accompanied by any of the following circumstances:

(1) The victim was a law enforcement officer or fire fighter and was performing his or her official duties at the time of the killing.

(2) At the time of the act resulting in the death, the defendant was serving a term of imprisonment in a state correctional institution.

(3) The defendant committed the murder pursuant to an agreement that he receive money or other thing of value for committing the murder.

(4) The defendant had solicited another to commit the murder and had paid or agreed to pay such person money or other thing of value for committing the murder.

(5) The defendant committed the murder with intent to conceal the commission of a crime, or to protect or conceal the identity of any person committing the same, or with intent to delay, hinder or obstruct the administration of justice by preventing any person from being a witness or producing evidence in any investigation or proceeding authorized by law or by influencing any person's official action as a juror.

(6) There was more than one victim and the said murders were part of a common scheme or plan, or the result of a single act of the defendant.

(7) The defendant committed the murder in the course of or in furtherance of the crime of rape or kidnaping or in immediate flight therefrom. [Initiative Measure No. 316 § 1.]

9A.32.046 Aggravated murder in the first degree—Penalty. A person found guilty of aggravated murder in the first degree as defined in RCW 9A.32.045, shall be punished by the mandatory sentence of death. Once a person is found guilty of aggravated murder in the first degree, as defined in RCW 9A.32.045, neither the court nor the jury shall have the discretion to suspend or defer the imposition or execution of the sentence of death. Such sentence shall be automatic upon any conviction of aggravated first degree murder. The death sentence shall take place at the state penitentiary under the direction of and pursuant to arrangements made by the superintendent thereof: *Provided*, That the time of such execution shall be set by the trial judge at the time of imposing sentence and as a part thereof. [Initiative Measure No. 316 § 2.]

9A.32.047 Aggravated murder in the first degree—Life imprisonment. In the event that the governor commutes a death sentence or in the event that the death penalty is held to be unconstitutional by the United States supreme court or the supreme court of the state of Washington in any of the circumstances specified in RCW 9A.32.045, the penalty for aggravated murder in the first degree in those circumstances shall be imprisonment in the state penitentiary for life. A person sentenced to life imprisonment under this section shall not have that sentence suspended, deferred, or commuted by any judicial officer, and the board of prison terms and paroles shall never parole a prisoner or reduce the period of confinement nor release the

convicted person as a result of any automatic good time calculation nor shall the department of social and health services permit the convicted person to participate in any work release or furlough program. [Initiative Measure No. 316 § 3.]

9A.32.050 Murder in the second degree. (1) A person is guilty of murder in the second degree when:

(a) With intent to cause the death of another person but without premeditation, he causes the death of such person or of a third person; or

(b) He commits or attempts to commit any felony other than those enumerated in RCW 9A.32.030(1)(c), and, in the course of and in furtherance of such crime or in immediate flight therefrom, he, or another participant, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision (1)(b) in which the defendant was not the only participant in the underlying crime, if established by the defendant by a preponderance of the evidence, it is a defense that the defendant:

(i) Did not commit the homicidal act or in any way solicit, request, command, importune, cause, or aid the commission thereof; and

(ii) Was not armed with a deadly weapon, or any instrument, article, or substance readily capable of causing death or serious physical injury; and

(iii) Had no reasonable grounds to believe that any other participant was armed with such a weapon, instrument, article, or substance; and

(iv) Had no reasonable grounds to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury.

(2) Murder in the second degree is a class A felony. [1975 1st ex.s. c 260 § 9A.32.050.]

9A.32.060 Manslaughter in the first degree. (1) A person is guilty of manslaughter in the first degree when:

(a) He recklessly causes the death of another person; or

(b) He intentionally and unlawfully kills an unborn quick child by inflicting any injury upon the mother of such child.

(2) Manslaughter in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.32.060.]

9A.32.070 Manslaughter in the second degree. (1) A person is guilty of manslaughter in the second degree when, with criminal negligence, he causes the death of another person.

(2) Manslaughter in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.32.070.]

9A.32.900 Severability—Initiative No. 316. 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. [Initiative Measure No. 316 § 4.]

9A.32.901 Section captions—Initiative No. 316. The section captions as used in this act are for organizational purposes only and shall not be construed as part of the law. [Initiative Measure No. 316 § 5.]

Chapter 9A.36 ASSAULT AND OTHER CRIMES INVOLVING PHYSICAL HARM

Sections

9A.36.010	Assault in the first degree.
9A.36.020	Assault in the second degree.
9A.36.030	Assault in the third degree.
9A.36.040	Simple assault.
9A.36.050	Reckless endangerment.
9A.36.060	Promoting a suicide attempt.
9A.36.070	Coercion.

9A.36.010 Assault in the first degree. (1) Every person, who with intent to kill a human being, or to commit a felony upon the person or property of the one assaulted, or of another, shall be guilty of assault in the first degree when he:

(a) Shall assault another with a firearm or any deadly weapon or by any force or means likely to produce death; or

(b) Shall administer to or cause to be taken by another, poison or any other destructive or noxious thing so as to endanger the life of another person.

(2) Assault in the first degree is a class A felony. [1975 1st ex.s. c 260 § 9A.36.010.]

9A.36.020 Assault in the second degree. (1) Every person who, under circumstances not amounting to assault in the first degree shall be guilty of assault in the second degree when he:

(a) With intent to injure, shall unlawfully administer to or cause to be taken by another, poison or any other destructive or noxious thing, or any drug or medicine the use of which is dangerous to life or health; or

(b) Shall knowingly inflict grievous bodily harm upon another with or without a weapon; or

(c) Shall knowingly assault another with a weapon or other instrument or thing likely to produce bodily harm; or

(d) Shall knowingly assault another with intent to commit a felony; or

(e) With criminal negligence, shall cause physical injury to another person by means of a weapon or other instrument or thing likely to produce bodily harm shall be guilty of assault in the second degree.

(2) Assault in the second degree is a class B felony. [1975 1st ex.s. c 260 § 9A.36.020.]

9A.36.030 Assault in the third degree. (1) Every person who, under circumstances not amounting to assault in either the first or second degree, shall assault another with intent to prevent or resist the execution of any lawful process or mandate of any court officer, or the lawful apprehension or detention of himself or another person shall be guilty of assault in the third degree.

(2) Assault in the third degree is a class C felony. [1975 1st ex.s. c 260 § 9A.36.030.]

9A.36.040 Simple assault. (1) Every person who shall commit an assault or an assault and battery not amounting to assault in either the first, second, or third degree shall be guilty of simple assault.

(2) Simple assault is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.36.040.]

9A.36.050 Reckless endangerment. (1) A person is guilty of reckless endangerment when he recklessly engages in conduct which creates a substantial risk of death or serious physical injury to another person.

(2) Reckless endangerment is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.36.050.]

9A.36.060 Promoting a suicide attempt. (1) A person is guilty of promoting a suicide attempt when he knowingly causes or aids another person to attempt suicide.

(2) Promoting a suicide attempt is a class C felony. [1975 1st ex.s. c 260 § 9A.36.060.]

9A.36.070 Coercion. (1) A person is guilty of coercion if by use of a threat he compels or induces a person to engage in conduct which the latter has a legal right to abstain from, or to abstain from conduct which he has a legal right to engage in.

(2) "Threat" as used in this section means:

(a) To communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) Threats as defined in RCW 9A.04.110(25)(a), (b), or (c).

(3) Coercion is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.36.070.]

Chapter 9A.40

KIDNAPING, UNLAWFUL IMPRISONMENT, AND CUSTODIAL INTERFERENCE

Sections

- 9A.40.010 Definitions.
- 9A.40.020 Kidnaping in the first degree.
- 9A.40.030 Kidnaping in the second degree.
- 9A.40.040 Unlawful imprisonment.
- 9A.40.050 Custodial interference.

9A.40.010 Definitions. The following definitions apply in this chapter:

(1) "Restrain" means to restrict a person's movements without consent and without legal authority in a manner which interferes substantially with his liberty. Restraint is "without consent" if it is accomplished by (a) physical force, intimidation, or deception, or (b) any means including acquiescence of the victim, if he is a child less than sixteen years old or an incompetent person and if the parent, guardian, or other person or institution having lawful control or custody of him has not acquiesced.

(2) "Abduct" means to restrain a person by either (a) secreting or holding him in a place where he is not likely to be found, or (b) using or threatening to use deadly force;

(3) "Relative" means an ancestor, descendant, or sibling, including a relative of the same degree through

marriage or adoption, or a spouse. [1975 1st ex.s. c 260 § 9A.40.010.]

9A.40.020 Kidnaping in the first degree. (1) A person is guilty of kidnaping in the first degree if he intentionally abducts another person with intent:

(a) To hold him for ransom or reward, or as a shield or hostage; or

(b) To facilitate commission of any felony or flight thereafter; or

(c) To inflict bodily injury on him; or

(d) To inflict extreme mental distress on him or a third person; or

(e) To interfere with the performance of any governmental function.

(2) Kidnaping in the first degree is a class A felony. [1975 1st ex.s. c 260 § 9A.40.020.]

9A.40.030 Kidnaping in the second degree. (1) A person is guilty of kidnaping in the second degree if he intentionally abducts another person under circumstances not amounting to kidnaping in the first degree.

(2) In any prosecution for kidnaping in the second degree, it is a defense if established by the defendant by a preponderance of the evidence that (a) the abduction does not include the use of or intent to use or threat to use deadly force, and (b) the actor is a relative of the person abducted, and (c) the actor's sole intent is to assume custody of that person. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, any other crime.

(3) Kidnaping in the second degree is a class B felony. [1975 1st ex.s. c 260 § 9A.40.030.]

9A.40.040 Unlawful imprisonment. (1) A person is guilty of unlawful imprisonment if he knowingly restrains another person.

(2) Unlawful imprisonment is a class C felony. [1975 1st ex.s. c 260 § 9A.40.040.]

9A.40.050 Custodial interference. (1) A person is guilty of custodial interference if, knowing that he has no legal right to do so, he takes or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution.

(2) Custodial interference is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.40.050.]

Chapter 9A.48

ARSON, RECKLESS BURNING, AND MALICIOUS MISCHIEF

Sections

- 9A.48.010 Definitions.
- 9A.48.020 Arson in the first degree.
- 9A.48.030 Arson in the second degree.
- 9A.48.040 Reckless burning in the first degree.
- 9A.48.050 Reckless burning in the second degree.
- 9A.48.060 Reckless burning—Defense.
- 9A.48.070 Malicious mischief in the first degree.
- 9A.48.080 Malicious mischief in the second degree.
- 9A.48.090 Malicious mischief in the third degree.
- 9A.48.100 Malicious mischief—"Physical damage" defined.

9A.48.010 Definitions. (1) For the purpose of this title, as now or hereinafter amended, unless the context indicates otherwise:

(a) "Building" has the definition in RCW 9A.04.110(5), and where a building consists of two or more units separately secured or occupied, each unit shall not be treated as a separate building;

(b) "Damages", in addition to its ordinary meaning, includes any charring, scorching, burning, or breaking, or agricultural or industrial sabotage, and shall include any diminution in the value of any property as a consequence of an act.

(2) To constitute arson it shall not be necessary that a person other than the actor should have had ownership in the building or structure damaged or set on fire. [1975 1st ex.s. c 260 § 9A.48.010.]

9A.48.020 Arson in the first degree. (1) A person is guilty of arson in the first degree if he knowingly and maliciously:

(a) Causes a fire or explosion which is manifestly dangerous to any human life including firemen; or

(b) Causes a fire or explosion which damages a dwelling; or

(c) Causes a fire or explosion in any building in which there shall be at the time a human being who is not a participant in the crime.

(2) Arson in the first degree is a class A felony. [1975 1st ex.s. c 260 § 9A.48.020.]

9A.48.030 Arson in the second degree. (1) A person is guilty of arson in the second degree if he knowingly and maliciously causes a fire or explosion which damages a building, or any structure or erection appurtenant to or joining any building, or any wharf, dock, machine, engine, automobile, or other motor vehicle, watercraft, aircraft, bridge, or trestle, or hay, grain, crop, or timber, whether cut or standing or any range land, or pasture land, or any fence, or any lumber, shingle, or other timber products, or any property.

(2) Arson in the second degree is a class B felony. [1975 1st ex.s. c 260 § 9A.48.030.]

9A.48.040 Reckless burning in the first degree. (1) A person is guilty of reckless burning in the first degree if he recklessly damages a building or other structure or any vehicle, railway car, aircraft or watercraft or any hay, grain, crop, or timber whether cut or standing, by knowingly causing a fire or explosion.

(2) Reckless burning in the first degree is a class C felony. [1975 1st ex.s. c 260 § 9A.48.040.]

9A.48.050 Reckless burning in the second degree. (1) A person is guilty of reckless burning in the second degree if he knowingly causes a fire or explosion, whether on his own property or that of another, and thereby recklessly places a building or other structure, or any vehicle, railway car, aircraft, or watercraft, or any hay, grain, crop or timber, whether cut or standing, in danger of destruction or damage.

(2) Reckless burning in the second degree is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.48.050.]

9A.48.060 Reckless burning—Defense. In any prosecution for the crime of reckless burning in the first or second degrees, it shall be a defense if the defendant establishes by a preponderance of the evidence that:

(a) No person other than the defendant had a possessory, or pecuniary interest in the damaged or endangered property, or if other persons had such an interest, all of them consented to the defendant's conduct; and

(b) The defendant's sole intent was to destroy or damage the property for a lawful purpose. [1975 1st ex.s. c 260 § 9A.48.060.]

9A.48.070 Malicious mischief in the first degree. (1) A person is guilty of malicious mischief in the first degree if he knowingly and maliciously:

(a) Causes physical damage to the property of another in an amount exceeding one thousand five hundred dollars; or

(b) Causes an interruption or impairment of service rendered to the public by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication.

(2) Malicious mischief in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.48.070.]

9A.48.080 Malicious mischief in the second degree. (1) A person is guilty of malicious mischief in the second degree if he knowingly and maliciously:

(a) Causes physical damage to the property of another in an amount exceeding two hundred and fifty dollars; or

(b) Creates a substantial risk of interruption or impairment of service rendered to the public, by physically damaging or tampering with an emergency vehicle or property of the state, a political subdivision thereof, or a public utility or mode of public transportation, power, or communication.

(2) Malicious mischief in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.48.080.]

9A.48.090 Malicious mischief in the third degree. (1) A person is guilty of malicious mischief in the third degree if he knowingly and maliciously causes physical damage to the property of another, under circumstances not amounting to malicious mischief in the first or second degree.

(2) Malicious mischief in the third degree is a gross misdemeanor if the damage to the property is in an amount exceeding fifty dollars; otherwise, it is a misdemeanor. [1975 1st ex.s. c 260 § 9A.48.090.]

9A.48.100 Malicious mischief—"Physical damage" defined. For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive, "physical damage", in addition to its ordinary meaning, shall include the alteration, damage, or erasure of records, information, data, or computer programs which are electronically recorded for use in computers. [1975 1st ex.s. c 260 § 9A.48.100.]

Chapter 9A.52
BURGLARY AND TRESPASS

Sections

9A.52.010	Definitions.
9A.52.020	Burglary in the first degree.
9A.52.030	Burglary in the second degree.
9A.52.040	Inference of intent.
9A.52.050	Other crime in committing burglary punishable.
9A.52.060	Making or having burglar tools.
9A.52.070	Criminal trespass in the first degree.
9A.52.080	Criminal trespass in the second degree.
9A.52.090	Criminal trespass—Defenses.
9A.52.100	Vehicle prowling.

9A.52.010 Definitions. The following definitions apply in this chapter:

(1) "Premises" includes any building, dwelling, or any real property;

(2) "Enter". The word "enter" when constituting an element or part of a crime, shall include the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property;

(3) "Enters or remains unlawfully". A person "enters or remains unlawfully" in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain.

A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner. [1975 1st ex.s. c 260 § 9A.52.010.]

9A.52.020 Burglary in the first degree. (1) A person is guilty of burglary in the first degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a dwelling and if, in entering or while in the dwelling or in immediate flight therefrom, the actor or another participant in the crime (a) is armed with a deadly weapon, or (b) assaults any person therein.

(2) Burglary in the first degree is a class A felony. [1975 1st ex.s. c 260 § 9A.52.020.]

9A.52.030 Burglary in the second degree. (1) A person is guilty of burglary in the second degree if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a building.

(2) Burglary in the second degree is a class B felony. [1975 1st ex.s. c 260 § 9A.52.030.]

9A.52.040 Inference of intent. In any prosecution for burglary, any person who enters or remains unlawfully in a building may be inferred to have acted with intent to commit a crime against a person or property therein, unless such entering or remaining shall be explained by

evidence satisfactory to the trier of fact to have been made without such criminal intent. [1975 1st ex.s. c 260 § 9A.52.040.]

9A.52.050 Other crime in committing burglary punishable. Every person who, in the commission of a burglary shall commit any other crime, may be punished therefor as well as for the burglary, and may be prosecuted for each crime separately. [1975 1st ex.s. c 260 § 9A.52.050.]

9A.52.060 Making or having burglar tools. (1) Every person who shall make or mend or cause to be made or mended, or have in his possession, any engine, machine, tool, false key, pick lock, bit, nippers, or implement adapted, designed, or commonly used for the commission of burglary under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a burglary, or knowing that the same is intended to be so used, shall be guilty of making or having burglar tools.

(2) Making or having burglar tools is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.52.060.]

9A.52.070 Criminal trespass in the first degree. (1) A person is guilty of criminal trespass in the first degree if he knowingly enters or remains unlawfully in a building or on real property adjacent thereto or upon real property which is fenced or otherwise enclosed in a manner designed to exclude intruders.

(2) Criminal trespass in the first degree is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.52.070.]

9A.52.080 Criminal trespass in the second degree. (1) A person is guilty of criminal trespass in the second degree if he knowingly enters or remains unlawfully in or upon premises of another.

(2) Criminal trespass in the second degree is a misdemeanor. [1975 1st ex.s. c 260 § 9A.52.080.]

9A.52.090 Criminal trespass—Defenses. In any prosecution under RCW 9A.52.070 and 9A.52.080, it is a defense that:

(1) A building involved in an offense under RCW 9A.52.070 was abandoned; or

(2) The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

(3) The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him to enter or remain. [1975 1st ex.s. c 260 § 9A.52.090.]

9A.52.100 Vehicle prowling. (1) A person is guilty of vehicle prowling if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a vehicle.

(2) Vehicle prowling is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.52.100.]

Chapter 9A.56
THEFT AND ROBBERY

Sections

9A.56.010	Definitions.
9A.56.020	Theft—Definition, defense.
9A.56.030	Theft in the first degree.
9A.56.040	Theft in the second degree.
9A.56.050	Theft in the third degree.
9A.56.060	Unlawful issuance of checks or drafts.
9A.56.070	Taking motor vehicle without permission.
9A.56.080	Theft of livestock.
9A.56.090	Presumption on failure to return vehicle, machinery, or equipment pursuant to rental or lease agreement.
9A.56.100	Theft and larceny equated.
9A.56.110	Extortion—Definition.
9A.56.120	Extortion in the first degree.
9A.56.130	Extortion in the second degree.
9A.56.140	Possessing stolen property—Definition—Credit cards, presumption.
9A.56.150	Possessing stolen property in the first degree.
9A.56.160	Possessing stolen property in the second degree.
9A.56.170	Possessing stolen property in the third degree.
9A.56.180	Obscuring identity of a machine.
9A.56.190	Robbery—Definition.
9A.56.200	Robbery in the first degree.
9A.56.210	Robbery in the second degree.

9A.56.010 Definitions. The following definitions are applicable in this chapter unless the the context otherwise requires:

(1) "Appropriate lost or misdelivered property or services" means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property;

(2) "By color or aid of deception" means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services;

(3) "Credit card" means any instrument or device, whether incomplete, revoked, or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the issuer;

(4) "Deception" occurs when an actor knowingly:

(a) Creates or confirms another's false impression which the actor knows to be false; or

(b) Fails to correct another's impression which the actor previously has created or confirmed; or

(c) Prevents another from acquiring information material to the disposition of the property involved; or

(d) Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official record; or

(e) Promises performance which the actor does not intend to perform or knows will not be performed.

(5) "Deprive" in addition to its common meaning means to make unauthorized use or an unauthorized copy of records, information, data, trade secrets, or

computer programs, provided that the aforementioned are of a private proprietary nature;

(6) "Obtain control over" in addition to its common meaning, means:

(a) In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or

(b) In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another;

(7) "Wrongfully obtains" or "exerts unauthorized control" means:

(a) To take the property or services of another; or

(b) Having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administrator, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his own use or to the use of any person other than the true owner or person entitled thereto;

(8) "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services;

(9) "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property;

(10) "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the use of equipment for use, and the use supplying of commodities of a public utility nature such as gas, electricity, steam, and water;

(11) "Stolen" means obtained by theft, robbery, or extortion;

(12) Value. (a) "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.

(b) Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:

(i) The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied;

(ii) The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of such ticket or equivalent instrument which the issuer charged the general public;

(iii) The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the

greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.

(c) Whenever any series of transactions which constitute theft, would, when considered separately, constitute theft in the third degree because of value, and said series of transactions are a part of a common scheme or plan, then the transactions may be aggregated in one count and the sum of the value of all said transactions shall be the value considered in determining the degree of theft involved.

(d) Whenever any person is charged with possessing stolen property and such person has unlawfully in his possession at the same time the stolen property of more than one person, then the stolen property possessed may be aggregated in one count and the sum of the value of all said stolen property shall be the value considered in determining the degree of theft involved.

(e) Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred and fifty dollars. [1975 1st ex.s. c 260 § 9A.56.010.]

9A.56.020 Theft—Definition, defense. (1) "Theft" means:

(a) To wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or

(b) By color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or

(c) To appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him of such property or services.

(2) In any prosecution for theft, it shall be a sufficient defense that the property or service was appropriated openly and avowedly under a claim of title preferred in good faith, even though the claim be untenable. [1975 1st ex.s. c 260 § 9A.56.020.]

Civil action for shoplifting by adults, minors: RCW 4.24.230.

9A.56.030 Theft in the first degree. (1) A person is guilty of theft in the first degree if he commits theft of:

(a) Property or services which exceed(s) one thousand five hundred dollars in value; or

(b) Property of any value taken from the person of another.

(2) Theft in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.56.030.]

Civil action for shoplifting by adults, minors: RCW 4.24.230.

9A.56.040 Theft in the second degree. (1) A person is guilty of theft in the second degree if he commits theft of:

(a) Property or services which exceed(s) two hundred and fifty dollars in value, but does not exceed one thousand five hundred dollars in value; or

(b) A public record, writing, or instrument kept, filed, or deposited according to law with or in the keeping of any public office or public servant; or

(c) A credit card; or

(d) A motor vehicle, of a value less than one thousand five hundred dollars.

(2) Theft in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.56.040.]

Civil action for shoplifting by adults, minors: RCW 4.24.230.

9A.56.050 Theft in the third degree. (1) A person is guilty of theft in the third degree if he commits theft of property or services which does not exceed two hundred and fifty dollars in value.

(2) Theft in the third degree is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.56.050.]

Civil action for shoplifting by adults, minors: RCW 4.24.230.

9A.56.060 Unlawful issuance of checks or drafts. (1) Any person who shall with intent to defraud, make, or draw, or utter, or deliver to another person any check, or draft, on a bank or other depository for the payment of money, knowing at the time of such drawing, or delivery, that he has not sufficient funds in, or credit with said bank or other depository, to meet said check or draft, in full upon its presentation, shall be guilty of unlawful issuance of bank check. The word "credit" as used herein shall be construed to mean an arrangement or understanding with the bank or other depository for the payment of such check or draft, and the uttering or delivery of such a check or draft to another person without such fund or credit to meet the same shall be prima facie evidence of an intent to defraud.

(2) Unlawful issuance of a bank check in an amount greater than two hundred and fifty dollars is a class C felony.

(3) Unlawful issuance of a bank check in an amount of two hundred and fifty dollars or less is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.56.060.]

9A.56.070 Taking motor vehicle without permission. (1) Every person who shall without the permission of the owner or person entitled to the possession thereof intentionally take or drive away any automobile or motor vehicle, whether propelled by steam, electricity, or internal combustion engine, the property of another, shall be deemed guilty of a felony, and every person voluntarily riding in or upon said automobile or motor vehicle with knowledge of the fact that the same was unlawfully taken shall be equally guilty with the person taking or driving said automobile or motor vehicle and shall be deemed guilty of taking a motor vehicle without permission.

(2) Taking a motor vehicle without permission is a class C felony. [1975 1st ex.s. c 260 § 9A.56.070.]

9A.56.080 Theft of livestock. (1) Every person who, with intent to deprive or defraud the owner thereof, wilfully takes, leads, or transports away, conceals, withholds, slaughters, or otherwise appropriates to his own use any horse, mule, cow, heifer, bull, steer, swine, or sheep shall be guilty of theft of livestock.

(2) Theft of livestock is a class B felony. [1975 1st ex.s. c 260 § 9A.56.080.]

9A.56.090 Presumption on failure to return vehicle, machinery, or equipment pursuant to rental or lease agreement. Any person to whom a motor vehicle, or piece of machinery or equipment having a fair market value in excess of one thousand five hundred dollars is delivered on a rental or lease basis under any agreement in writing providing for its return to a particular place at a particular time, who refuses or wilfully neglects to return such vehicle or piece of machinery or equipment after the expiration of a reasonable time after a notice in writing proved to have been duly mailed by registered or certified mail with return receipt requested addressed to the last known address of the person who rented or leased the motor vehicle, or piece of machinery or equipment, shall be presumed to have intended to deprive or defraud the owner thereof within the meaning of RCW 9A.56.020 defining the crime of theft. This presumption may be rebutted by evidence raising a reasonable inference that the failure to return the vehicle or piece of machinery or equipment was not with the intent to defraud or otherwise deprive the owner of his property. [1975 1st ex.s. c 260 § 9A.56.090.]

9A.56.100 Theft and larceny equated. All offenses defined as larcenies outside of this title shall be treated as thefts as provided in this title. [1975 1st ex.s. c 260 § 9A.56.100.]

9A.56.110 Extortion—Definition. "Extortion" means knowingly to obtain or attempt to obtain by threat property or services of the owner, as defined in *RCW 9A.56.010(8). [1975 1st ex.s. c 260 § 9A.56.110.]

*Reviser's note: In 1975 1st ex.s. c 260 § 9A.56.110 the citation of the definition of "owner" appears as "section 9A.56.010(7)". During its course of passage section 9A.56.010 was amended by inserting a new subsection (5) and renumbering the following subsections so that as enacted the definition of owner appears in 9A.56.010(8). The text herein has been revised accordingly.

9A.56.120 Extortion in the first degree. (1) A person is guilty of extortion in the first degree if he commits extortion by means of a threat as defined in RCW 9A.04.110(25)(a), (b), or (c).

(2) Extortion in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.56.120.]

9A.56.130 Extortion in the second degree. (1) A person is guilty of extortion in the second degree if he commits extortion by means of a threat as defined in RCW 9A.04.110(25) (d) through (j).

(2) In any prosecution under this section based on a threat to accuse any person of a crime or cause criminal charges to be instituted against any person, it is a defense that the actor reasonably believed the threatened criminal charge to be true and that his sole purpose was to compel or induce the person threatened to take reasonable action to make good the wrong which was the subject of such threatened criminal charge.

(3) Extortion in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.56.130.]

9A.56.140 Possessing stolen property—Definition—Credit cards, presumption. (1) "Possessing stolen property" means knowingly to receive, retain, possess, conceal, or dispose of stolen property knowing that it has been stolen and to withhold or appropriate the same to the use of any person other than the true owner or person entitled thereto.

(2) The fact that the person who stole the property has not been convicted, apprehended, or identified is not a defense to a charge of possessing stolen property.

(3) When a person not an issuer or agent thereof has in his possession or under his control stolen credit cards issued in the names of two or more persons, he shall be presumed to know that they are stolen. This presumption may be rebutted by evidence raising a reasonable inference that the possession of such stolen credit cards was without knowledge that they were stolen. [1975 1st ex.s. c 260 § 9A.56.140.]

9A.56.150 Possessing stolen property in the first degree. (1) A person is guilty of possessing stolen property in the first degree if he possesses stolen property which exceeds one thousand five hundred dollars in value.

(2) Possessing stolen property in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.56.150.]

9A.56.160 Possessing stolen property in the second degree. (1) A person is guilty of possessing stolen property in the second degree if:

(a) He possesses stolen property which exceeds two hundred fifty dollars in value but does not exceed one thousand five hundred dollars in value; or

(b) He possesses a stolen public record, writing or instrument kept, filed, or deposited according to law; or

(c) He possesses a stolen credit card; or

(d) He possesses a stolen motor vehicle of a value less than one thousand five hundred dollars; or

(e) He possesses a stolen firearm.

(2) Possessing stolen property in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.56.160.]

9A.56.170 Possessing stolen property in the third degree. (1) A person is guilty of possessing stolen property in the third degree if he possesses stolen property which does not exceed two hundred fifty dollars in value.

(2) Possessing stolen property in the third degree is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.56.170.]

9A.56.180 Obscuring identity of a machine. (1) A person is guilty of obscuring identity of a machine if he knowingly:

(a) Obscures the manufacturer's serial number or any other distinguishing identification number or mark upon any vehicle, machine, engine, apparatus, appliance, or other device with intent to render it unidentifiable; or

(b) Possesses a vehicle, machine, engine, apparatus, appliance, or other device held for sale knowing that the serial number or other identification number or mark has been obscured.

(2) "Obscure" means to remove, deface, cover, alter, destroy, or otherwise render unidentifiable.

(3) Obscuring identity of a machine is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.56.180.]

9A.56.190 Robbery—Definition. A person commits robbery when he unlawfully takes personal property from the person of another or in his presence against his will by the use or threatened use of immediate force, violence, or fear of injury to that person or his property or the person or property of anyone. Such force or fear must be used to obtain or retain possession of the property, or to prevent or overcome resistance to the taking; in either of which cases the degree of force is immaterial. Such taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear. [1975 1st ex.s. c 260 § 9A.56.190.]

9A.56.200 Robbery in the first degree. (1) A person is guilty of robbery in the first degree if in the commission of a robbery or of immediate flight therefrom, he:

- (a) Is armed with a deadly weapon; or
 - (b) Displays what appears to be a firearm or other deadly weapon; or
 - (c) Inflicts bodily injury.
- (2) Robbery in the first degree is a class A felony. [1975 1st ex.s. c 260 § 9A.56.200.]

9A.56.210 Robbery in the second degree. (1) A person is guilty of robbery in the second degree if he commits robbery.

(2) Robbery in the second degree is a class B felony. [1975 1st ex.s. c 260 § 9A.56.210.]

Chapter 9A.60 FRAUD

Sections

9A.60.010	Definitions.
9A.60.020	Forgery.
9A.60.030	Obtaining a signature by deception or duress.
9A.60.040	Criminal impersonation.
9A.60.050	False certification.

9A.60.010 Definitions. The following definitions and the definitions of RCW 9A.56.010 are applicable in this chapter unless the context otherwise requires:

(1) "Written instrument" means: (a) Any paper, document, or other instrument containing written or printed matter or its equivalent; or (b) any credit card, as defined in RCW 9A.56.010(3), token, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege, or identification;

(2) "Complete written instrument" means one which is fully drawn with respect to every essential feature thereof;

(3) "Incomplete written statement" means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument;

(4) To "falsely make" a written instrument means to make or draw a complete or incomplete written instrument which purports to be authentic, but which is not

authentic either because the ostensible maker is fictitious or because, if real, he did not authorize the making or drawing thereof;

(5) To "falsely complete" a written instrument means to transform an incomplete written instrument into a complete one by adding or inserting matter, without the authority of anyone entitled to grant it;

(6) To "falsely alter" a written instrument means to change, without authorization by anyone entitled to grant it, a written instrument, whether complete or incomplete, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner;

(7) "Forged instrument" means a written instrument which has been falsely made, completed or altered. [1975 1st ex.s. c 260 § 9A.60.010.]

9A.60.020 Forgery. (1) A person is guilty of forgery if, with intent to injure or defraud:

- (a) He falsely makes, completes, or alters a written instrument or;
 - (b) Possesses, utters, offers, disposes of, or puts off as true a written instrument which he knows to be forged.
- (2) Forgery is a class C felony. [1975 1st ex.s. c 260 § 9A.60.020.]

9A.60.030 Obtaining a signature by deception or duress. (1) A person is guilty of obtaining a signature by deception or duress if by deception or duress and with intent to defraud or deprive he causes another person to sign or execute a written instrument.

(2) Obtaining a signature by deception is a class C felony. [1975 1st ex.s. c 260 § 9A.60.030.]

9A.60.040 Criminal impersonation. (1) A person is guilty of criminal impersonation if he:

- (a) Assumes a false identity and does an act in his assumed character with intent to defraud another or for any other unlawful purpose; or
- (b) Pretends to be a representative of some person or organization or a public servant and does an act in his pretended capacity with intent to defraud another or for any other unlawful purpose.

(2) Criminal impersonation is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.60.040.]

9A.60.050 False certification. (1) Any person is guilty of false certification, if, being an officer authorized to take a proof or acknowledgment of an instrument which by law may be recorded, he knowingly certifies falsely that the execution of such instrument was acknowledged by any party thereto or that the execution thereof was proved.

(2) False certification is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.60.050.]

Chapter 9A.64 FAMILY OFFENSES

Sections

9A.64.010	Bigamy.
9A.64.020	Incest.

9A.64.010 Bigamy. (1) A person is guilty of bigamy if he intentionally marries or purports to marry another person when either person has a living spouse.

(2) In any prosecution under this section, it is a defense that at the time of the subsequent marriage or purported marriage:

(a) The actor reasonably believed that the prior spouse was dead; or

(b) A court had entered a judgment purporting to terminate or annul any prior disqualifying marriage and the actor did not know that such judgment was invalid; or

(c) The actor reasonably believed that he was legally eligible to marry.

(3) Bigamy is a class C felony. [1975 1st ex.s. c 260 § 9A.64.010.]

9A.64.020 Incest. (1) A person is guilty of incest if he engages in sexual intercourse with a person whom he knows to be related to him, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either the whole or the half blood.

(2) As used in this section, "descendant" includes stepchildren and adopted children under eighteen years of age.

(3) Incest is a class C felony. [1975 1st ex.s. c 260 § 9A.64.020.]

Chapter 9A.68

BRIBERY AND CORRUPT INFLUENCE

Sections

9A.68.010	Bribery.
9A.68.020	Requesting unlawful compensation.
9A.68.030	Receiving or granting unlawful compensation.
9A.68.040	Trading in public office.
9A.68.050	Trading in special influence.

9A.68.010 Bribery. (1) A person is guilty of bribery if:

(a) With the intent to secure a particular result in a particular matter involving the exercise of the public servant's vote, opinion, judgment, exercise of discretion, or other action in his official capacity, he offers, confers, or agrees to confer any pecuniary benefit upon such public servant; or

(b) Being a public servant, he requests, accepts, or agrees to accept any pecuniary benefit pursuant to an agreement or understanding that his vote, opinion, judgment, exercise of discretion, or other action as a public servant will be used to secure or attempt to secure a particular result in a particular matter.

(2) It is no defense to a prosecution under this section that the public servant sought to be influenced was not qualified to act in the desired way, whether because he had not yet assumed office, lacked jurisdiction, or for any other reason.

(3) Bribery is a class B felony. [1975 1st ex.s. c 260 § 9A.68.010.]

9A.68.020 Requesting unlawful compensation. (1) A public servant is guilty of requesting unlawful compensation if he requests a pecuniary benefit for the performance of an official action knowing that he is required to perform that action without compensation or at a level of compensation lower than that requested.

(2) Requesting unlawful compensation is a class C felony. [1975 1st ex.s. c 260 § 9A.68.020.]

9A.68.030 Receiving or granting unlawful compensation. (1) A person is guilty of receiving or granting unlawful compensation if:

(a) Being a public servant, he requests, accepts, or agrees to accept compensation for advice or other assistance in preparing a bill, contract, claim, or transaction regarding which he knows he is likely to have an official discretion to exercise; or

(b) He knowingly offers, pays, or agrees to pay compensation to a public servant for advice or other assistance in preparing or promoting a bill, contract, claim, or other transaction regarding which the public servant is likely to have an official discretion to exercise.

(2) Receiving or granting unlawful compensation is a class C felony. [1975 1st ex.s. c 260 § 9A.68.030.]

9A.68.040 Trading in public office. (1) A person is guilty of trading in public office if:

(a) He offers, confers, or agrees to confer any pecuniary benefit upon a public servant pursuant to an agreement or understanding that such actor will or may be appointed to a public office; or

(b) Being a public servant, he requests, accepts, or agrees to accept any pecuniary benefit from another person pursuant to an agreement or understanding that such person will or may be appointed to a public office.

(2) Trading in public office is a class C felony. [1975 1st ex.s. c 260 § 9A.68.040.]

9A.68.050 Trading in special influence. (1) A person is guilty of trading in special influence if:

(a) He offers, confers, or agrees to confer any pecuniary benefit upon another person pursuant to an agreement or understanding that such other person will offer or confer a benefit upon a public servant or procure another to do so with intent thereby to secure or attempt to secure a particular result in a particular matter; or

(b) He requests, accepts, or agrees to accept any pecuniary benefit pursuant to an agreement or understanding that he will offer or confer a benefit upon a public servant or procure another to do so with intent thereby to secure or attempt to secure a particular result in a particular matter.

(2) Trading in special influence is a class C felony. [1975 1st ex.s. c 260 § 9A.68.050.]

Chapter 9A.72

PERJURY AND INTERFERENCE WITH OFFICIAL PROCEEDINGS

Sections

9A.72.010	Definitions.
9A.72.020	Perjury in the first degree.

9A.72.030	Perjury in the second degree.
9A.72.040	False swearing.
9A.72.050	Perjury and false swearing—Inconsistent statements—Degree of crime.
9A.72.060	Perjury and false swearing—Retraction.
9A.72.070	Perjury and false swearing—Irregularities no defense.
9A.72.080	Statement of what one does not know to be true.
9A.72.090	Bribing a witness.
9A.72.100	Bribe receiving by a witness.
9A.72.110	Intimidating a witness.
9A.72.120	Tampering with a witness.
9A.72.130	Intimidating a juror.
9A.72.140	Jury tampering.
9A.72.150	Tampering with physical evidence.

9A.72.010 Definitions. The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Materially false statement" means any false statement oral or written, regardless of its admissibility under the rules of evidence, which could have affected the course or outcome of the proceeding; whether a false statement is material shall be determined by the court as a matter of law;

(2) "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated; in this chapter, written statements shall be treated as if made under oath if:

(a) The statement was made on or pursuant to instructions on an official form bearing notice, authorized by law, to the effect that false statements made therein are punishable; or

(b) The statement recites that it was made under oath, the declarant was aware of such recitation at the time he made the statement, intended that the statement should be represented as a sworn statement, and the statement was in fact so represented by its delivery or utterance with the signed jurat of an officer authorized to administer oaths appended thereto;

(3) An oath is "required or authorized by law" when the use of the oath is specifically provided for by statute or regulatory provision;

(4) "Official proceeding" means a proceeding heard before any legislative, judicial, administrative, or other government agency or official authorized to hear evidence under oath, including any referee, hearing examiner, commissioner, notary, or other person taking testimony or depositions;

(5) "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court of this state or by any public servant authorized by law to impanel a jury; the term juror also includes any person who has been drawn or summoned to attend as a prospective juror;

(6) "Testimony" includes oral or written statements, documents, or any other material that may be offered by a witness in an official proceeding. [1975 1st ex.s. c 260 § 9A.72.010.]

9A.72.020 Perjury in the first degree. (1) A person is guilty of perjury in the first degree if in any official proceeding he makes a materially false statement which he knows to be false under an oath required or authorized by law.

(2) Knowledge of the materiality of the statement is not an element of this crime, and the actor's mistaken belief that his statement was not material is not a defense to a prosecution under this section.

(3) Perjury in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.72.020.]

9A.72.030 Perjury in the second degree. (1) A person is guilty of perjury in the second degree if, with intent to mislead a public servant in the performance of his duty, he makes a materially false statement, which he knows to be false under an oath required or authorized by law.

(2) Perjury in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.72.030.]

9A.72.040 False swearing. (1) A person is guilty of false swearing if he makes a false statement, which he knows to be false, under an oath required or authorized by law.

(2) False swearing is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.72.040.]

9A.72.050 Perjury and false swearing—Inconsistent statements—Degree of crime. (1) Where, in the course of one or more official proceedings, a person makes inconsistent material statements under oath, the prosecution may proceed by setting forth the inconsistent statements in a single count alleging in the alternative that one or the other was false and known by the defendant to be false. In such case it shall not be necessary for the prosecution to prove which material statement was false but only that one or the other was false and known by the defendant to be false.

(2) The highest offense of which a person may be convicted in such an instance as set forth in subsection (1) of this section shall be determined by hypothetically assuming each statement to be false. If perjury of different degrees would be established by the making of the two statements, the person may only be convicted of the lesser degree. If perjury or false swearing would be established by the making of the two statements, the person may only be convicted of false swearing. For purposes of this section, no corroboration shall be required of either inconsistent statement. [1975 1st ex.s. c 260 § 9A.72.050.]

9A.72.060 Perjury and false swearing—Retraction. No person shall be convicted or *[of] perjury or false swearing if he retracts his false statement in the course of the same proceeding in which it was made, if in fact he does so before it becomes manifest that the falsification is or will be exposed and before the falsification substantially affects the proceeding. Statements made in separate hearings at separate stages of the same trial, administrative, or other official proceeding shall be treated as if made in the course of the same proceeding. [1975 1st ex.s. c 260 § 9A.72.060.]

***Reviser's note:** It appears "of" should be substituted for "or" as contained in the session law language.

9A.72.070 Perjury and false swearing—Irregularities no defense. It is no defense to a prosecution for perjury or false swearing:

(1) That the oath was administered or taken in an irregular manner; or

(2) That the person administering the oath lacked authority to do so, if the taking of the oath was required or authorized by law. [1975 1st ex.s. c 260 § 9A.72.070.]

9A.72.080 Statement of what one does not know to be true. Every unqualified statement of that which one does not know to be true is equivalent to a statement of that which he knows to be false. [1975 1st ex.s. c 260 § 9A.72.080.]

9A.72.090 Bribing a witness. (1) A person is guilty of bribing a witness if he offers, confers, or agrees to confer any benefit upon a witness or a person he has reason to believe is about to be called as a witness in any official proceeding with intent to:

(a) Influence the testimony of that person; or

(b) Induce that person to avoid legal process summoning him to testify; or

(c) Induce that person to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribing a witness is a class B felony. [1975 1st ex.s. c 260 § 9A.72.090.]

9A.72.100 Bribe receiving by a witness. (1) A witness or a person who has reason to believe he is about to be called as a witness in any official proceeding is guilty of bribe receiving by a witness if he requests, accepts, or agrees to accept any benefit pursuant to an agreement or understanding that:

(a) His testimony will thereby be influenced; or

(b) He will attempt to avoid legal process summoning him to testify; or

(c) He will attempt to absent himself from an official proceeding to which he has been legally summoned.

(2) Bribe receiving by a witness is a class B felony. [1975 1st ex.s. c 260 § 9A.72.100.]

9A.72.110 Intimidating a witness. (1) A person is guilty of intimidating a witness if, by use of a threat directed to a witness or a person he has reason to believe is about to be called as a witness in any official proceeding, he attempts to:

(a) Influence the testimony of that person; or

(b) Induce that person to elude legal process summoning him to testify; or

(c) Induce that person to absent himself from such proceedings.

(2) "Threat" as used in this section means

(a) to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) threats as defined in RCW 9A.04.110(25).

(3) Intimidating a witness is a class B felony. [1975 1st ex.s. c 260 § 9A.72.110.]

9A.72.120 Tampering with a witness. (1) A person is guilty of tampering with a witness if he attempts to induce a witness or person he has reason to believe is about to be called as a witness in any official proceeding to:

(a) Testify falsely or, without right or privilege to do so, to withhold any testimony; or

(b) Absent himself from such proceedings.

(2) Tampering with a witness is a class C felony. [1975 1st ex.s. c 260 § 9A.72.120.]

9A.72.130 Intimidating a juror. (1) A person is guilty of intimidating a juror if, by use of a threat, he attempts to influence a juror's vote, opinion, decision, or other official action as a juror.

(2) "Threat" as used in this section means

(a) to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) threats as defined in RCW 9A.04.110(25).

(3) Intimidating a juror is a class B felony. [1975 1st ex.s. c 260 § 9A.72.130.]

9A.72.140 Jury tampering. (1) A person is guilty of jury tampering if with intent to influence a juror's vote, opinion, decision, or other official action in a case, he attempts to communicate directly or indirectly with a juror other than as part of the proceedings in the trial of the case.

(2) Jury tampering is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.72.140.]

9A.72.150 Tampering with physical evidence. (1) A person is guilty of tampering with physical evidence if, having reason to believe that an official proceeding is pending or about to be instituted and acting without legal right or authority, he:

(a) Destroys, mutilates, conceals, removes, or alters physical evidence with intent to impair its appearance, character, or availability in such pending or prospective official proceeding; or

(b) Knowingly presents or offers any false physical evidence.

(2) "Physical evidence" as used in this section includes any article, object, document, record, or other thing of physical substance.

(3) Tampering with physical evidence is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.72.150.]

Chapter 9A.76

OBSTRUCTING GOVERNMENTAL OPERATION

Sections

9A.76.010	Definitions.
9A.76.020	Obstructing a public servant.
9A.76.030	Refusing to summon aid for a peace officer.
9A.76.040	Resisting arrest.
9A.76.050	Rendering criminal assistance—Definition of term.
9A.76.060	Relative defined.
9A.76.070	Rendering criminal assistance in the first degree.
9A.76.080	Rendering criminal assistance in the second degree.
9A.76.090	Rendering criminal assistance in the third degree.
9A.76.100	Compounding.
9A.76.110	Escape in the first degree.
9A.76.120	Escape in the second degree.

- 9A.76.130 Escape in the third degree.
 9A.76.140 Introducing contraband in the first degree.
 9A.76.150 Introducing contraband in the second degree.
 9A.76.160 Introducing contraband in the third degree.
 9A.76.170 Bail jumping.
 9A.76.180 Intimidating a public servant.

9A.76.010 Definitions. The following definitions are applicable in this chapter unless the context otherwise requires:

(1) "Custody" means restraint pursuant to a lawful arrest or an order of a court;

(2) "Detention facility" means any place used for the confinement, of a person (a) arrested for, charged with or convicted of an offense, or (b) charged with being or adjudicated to be a dependent or delinquent child as defined in RCW 13.04.010 as now or hereafter amended, or (c) held for extradition or as a material witness, or (d) otherwise confined pursuant to an order of a court, or (e) in any work release, furlough, or other such facility or program;

(3) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, rule, regulation, or order of a court. [1975 1st ex.s. c 260 § 9A.76.010.]

9A.76.020 Obstructing a public servant. Every person who, (1) without lawful excuse shall refuse or knowingly fail to make or furnish any statement, report, or information lawfully required of him by a public servant, or (2) in any such statement or report shall make any knowingly untrue statement to a public servant, or (3) shall knowingly hinder, delay, or obstruct any public servant in the discharge of his official powers or duties; shall be guilty of a misdemeanor. [1975 1st ex.s. c 260 § 9A.76.020.]

9A.76.030 Refusing to summon aid for a peace officer. (1) A person is guilty of refusing to summon aid for a peace officer if, upon request by a person he knows to be a peace officer, he unreasonably refuses or fails to summon aid for such peace officer.

(2) Refusing to summon aid for a peace officer is a misdemeanor. [1975 1st ex.s. c 260 § 9A.76.030.]

9A.76.040 Resisting arrest. (1) A person is guilty of resisting arrest if he intentionally prevents or attempts to prevent a peace officer from lawfully arresting him.

(2) Resisting arrest is a misdemeanor. [1975 1st ex.s. c 260 § 9A.76.040.]

9A.76.050 Rendering criminal assistance—Definition of term. As used in RCW 9A.76.070, 9A.76.080, and 9A.76.090, a person "renders criminal assistance" if, with intent to prevent, hinder, or delay the apprehension or prosecution of another person who he knows has committed a crime or is being sought by law enforcement officials for the commission of a crime or has escaped from a detention facility, he:

(1) Harbors or conceals such person; or

(2) Warns such person of impending discovery or apprehension; or

(3) Provides such person with money, transportation, disguise, or other means of avoiding discovery or apprehension; or

(4) Prevents or obstructs, by use of force, deception, or threat, anyone from performing an act that might aid in the discovery or apprehension of such person; or

(5) Conceals, alters, or destroys any physical evidence that might aid in the discovery or apprehension of such person; or

(6) Provides such person with a weapon. [1975 1st ex.s. c 260 § 9A.76.050.]

9A.76.060 Relative defined. As used in RCW 9A.76.070 and 9A.76.080, "relative" means a person:

(1) Who is related as husband or wife, brother or sister, parent or grandparent, child or grandchild, step-child or step-parent to the person to whom criminal assistance is rendered; and

(2) Who does not render criminal assistance to another person in one or more of the means defined in subsections (4), (5), or (6) of RCW 9A.76.050. [1975 1st ex.s. c 260 § 9A.76.060.]

9A.76.070 Rendering criminal assistance in the first degree. (1) A person is guilty of rendering criminal assistance in the first degree if he renders criminal assistance to a person who has committed or is being sought for murder in the first degree or any class A felony.

(2) Rendering criminal assistance in the first degree is:

(a) A gross misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060;

(b) A class C felony in all other cases. [1975 1st ex.s. c 260 § 9A.76.070.]

9A.76.080 Rendering criminal assistance in the second degree. (1) A person is guilty of rendering criminal assistance in the second degree if he renders criminal assistance to a person who has committed or is being sought for a class B or class C felony.

(2) Rendering criminal assistance in the second degree is:

(a) A misdemeanor if it is established by a preponderance of the evidence that the actor is a relative as defined in RCW 9A.76.060;

(b) A gross misdemeanor in all other cases. [1975 1st ex.s. c 260 § 9A.76.080.]

9A.76.090 Rendering criminal assistance in the third degree. (1) A person is guilty of rendering criminal assistance in the third degree if he renders criminal assistance to a person who has committed a gross misdemeanor or misdemeanor.

(2) Rendering criminal assistance in the third degree is a misdemeanor. [1975 1st ex.s. c 260 § 9A.76.090.]

9A.76.100 Compounding. (1) A person is guilty of compounding if:

(a) He requests, accepts, or agrees to accept any pecuniary benefit pursuant to an agreement or understanding that he will refrain from initiating a prosecution for a crime; or

(b) He confers, or offers or agrees to confer, any pecuniary benefit upon another pursuant to an agreement or understanding that such other person will refrain from initiating a prosecution for a crime.

(2) In any prosecution under this section, it is a defense if established by a preponderance of the evidence that the pecuniary benefit did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the crime.

(3) Compounding is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.76.100.]

9A.76.110 Escape in the first degree. (1) A person is guilty of escape in the first degree if, being detained pursuant to a conviction of a felony, he escapes from custody or a detention facility.

(2) Escape in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.76.110.]

9A.76.120 Escape in the second degree. (1) A person is guilty of escape in the second degree if:

(a) He escapes from a detention facility; or

(b) Having been charged with a felony, he escapes from custody.

(2) Escape in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.76.120.]

9A.76.130 Escape in the third degree. (1) A person is guilty of escape in the third degree if he escapes from custody.

(2) Escape in the third degree is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.76.130.]

9A.76.140 Introducing contraband in the first degree.

(1) A person is guilty of introducing contraband in the first degree if he knowingly provides any deadly weapon to any person confined in a detention facility.

(2) Introducing contraband in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.76.140.]

9A.76.150 Introducing contraband in the second degree.

(1) A person is guilty of introducing contraband in the second degree if he knowingly and unlawfully provides contraband to any person confined in a detention facility with the intent that such contraband be of assistance in an escape or in the commission of a crime.

(2) Introducing contraband in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.76.150.]

9A.76.160 Introducing contraband in the third degree.

(1) A person is guilty of introducing contraband in the third degree if he knowingly and unlawfully provides contraband to any person confined in a detention facility.

(2) Introducing contraband in the third degree is a misdemeanor. [1975 1st ex.s. c 260 § 9A.76.160.]

9A.76.170 Bail jumping. (1) Any person having been released by court order or admitted to bail with the requirement of a subsequent personal appearance before any court of this state, and who knowingly fails without lawful excuse to appear as required is guilty of bail jumping. Unless otherwise established, the failure to appear when required shall be inferred to have been without lawful excuse.

(2) Bail jumping is:

(a) A class A felony if the person was held for, charged with, or convicted of murder in the first degree;

(b) A class B felony if the person was held for, charged with, or convicted of a class A felony;

(c) A class C felony if the person was held for, charged with, or convicted of a class B felony;

(d) A gross misdemeanor if the person was held for, charged with, or convicted of a class C felony;

(e) A misdemeanor if the person was held for, charged with, or convicted of a gross misdemeanor or misdemeanor. [1975 1st ex.s. c 260 § 9A.76.170.]

9A.76.180 Intimidating a public servant. (1) A person is guilty of intimidating a public servant if, by use of a threat, he attempts to influence a public servant's vote, opinion, decision, or other official action as a public servant.

(2) For purposes of this section "public servant" shall not include jurors.

(3) "Threat" as used in this section means

(a) to communicate, directly or indirectly, the intent immediately to use force against any person who is present at the time; or

(b) threats as defined in RCW 9A.04.110(25).

(4) Intimidating a public servant is a class B felony. [1975 1st ex.s. c 260 § 9A.76.180.]

Chapter 9A.80 ABUSE OF OFFICE

Sections

9A.80.010 Official misconduct.

9A.80.010 Official misconduct. (1) A public servant is guilty of official misconduct if, with intent to obtain a benefit or to deprive another person of a lawful right or privilege:

(a) He intentionally commits an authorized act under color of law; or

(b) He intentionally refrains from performing a duty imposed upon him by law.

(2) Official misconduct is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.80.010.]

Chapter 9A.84 PUBLIC DISTURBANCE

Sections

9A.84.010 Riot.

9A.84.020 Failure to disperse.

9A.84.030 Disorderly conduct.

9A.84.040 False reporting.

9A.84.010 Riot. (1) A person is guilty of the crime of riot if, acting with three or more other persons, he knowingly and unlawfully uses or threatens to use force, or in any way participates in the use of such force, against any other person or against property.

(2) The crime of riot is:

(a) A class C felony, if the actor is armed with a deadly weapon;

(b) A gross misdemeanor in all other cases. [1975 1st ex.s. c 260 § 9A.84.010.]

9A.84.020 Failure to disperse. (1) A person is guilty of failure to disperse if:

(a) He congregates with a group of three or more other persons and there are acts of conduct within that group which create a substantial risk of causing injury to any person, or substantial harm to property; and

(b) He refuses or fails to disperse when ordered to do so by a peace officer or other public servant engaged in enforcing or executing the law.

(2) Failure to disperse is a misdemeanor. [1975 1st ex.s. c 260 § 9A.84.020.]

9A.84.030 Disorderly conduct. (1) A person is guilty of disorderly conduct if he:

(a) Uses abusive language and thereby intentionally creates a risk of assault; or

(b) Intentionally disrupts any lawful assembly or meeting of persons without lawful authority; or

(c) Intentionally obstructs vehicular or pedestrian traffic without lawful authority.

(2) Disorderly conduct is a misdemeanor. [1975 1st ex.s. c 260 § 9A.84.030.]

9A.84.040 False reporting. (1) A person is guilty of false reporting if with knowledge that the information reported, conveyed or circulated is false, he initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, crime, catastrophe, or emergency knowing that such false report is likely to cause evacuation of a building, place of assembly, or transportation facility, or to cause public inconvenience or alarm.

(2) False reporting is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.84.040.]

Chapter 9A.88

PUBLIC INDECENCY—PROSTITUTION—SEX CRIMES

Sections

9A.88.010	Public indecency.
9A.88.020	Communication with a minor for immoral purposes.
9A.88.030	Prostitution.
9A.88.050	Prostitution—Sex of parties immaterial—No defense.
9A.88.060	Promoting prostitution—Definitions.
9A.88.070	Promoting prostitution in the first degree.
9A.88.080	Promoting prostitution in the second degree.
9A.88.090	Permitting prostitution.
9A.88.100	Indecent liberties.

9A.88.010 Public indecency. (1) A person is guilty of public indecency if he makes any open and obscene exposure of his person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm.

(2) Public indecency is a misdemeanor unless such person exposes himself to a person under the age of fourteen years in which case indecency is a gross misdemeanor. [1975 1st ex.s. c 260 § 9A.88.010.]

9A.88.020 Communication with a minor for immoral purposes. Any person who communicates with a child under the age of seventeen years of age for immoral purposes shall be guilty of a gross misdemeanor, unless such person has previously been convicted of a felony sexual offense or has previously been convicted under this section or *RCW 9.79.130, in which case such person shall be guilty of a class C felony. [1975 1st ex.s. c 260 § 9A.88.020.]

*Reviser's note: "RCW 9.79.130" will be repealed by 1975 1st ex.s. c 260 § 9A.92.010, effective July 1, 1976; See RCW 9A.98.010(212).

9A.88.030 Prostitution. (1) A person is guilty of prostitution if such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee.

(2) Prostitution is a misdemeanor. [1975 1st ex.s. c 260 § 9A.88.030.]

9A.88.050 Prostitution—Sex of parties immaterial—No defense. In any prosecution for prostitution, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated, or solicited is immaterial, and it is no defense that:

(1) Such persons were of the same sex; or

(2) The person who received, agreed to receive, or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was female. [1975 1st ex.s. c 260 § 9A.88.050.]

9A.88.060 Promoting prostitution—Definitions. The following definitions are applicable in RCW 9A.88.070 through 9A.88.090:

(1) "Advances prostitution." A person "advances prostitution" if, acting other than as a prostitute or as a customer thereof, he causes or aids a person to commit or engage in prostitution, procures or solicits customers for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid, or facilitate an act or enterprise of prostitution.

(2) "Profits from prostitution." A person "profits from prostitution" if, acting other than as a prostitute receiving compensation for personally rendered prostitution services, he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of prostitution activity. [1975 1st ex.s. c 260 § 9A.88.060.]

9A.88.070 Promoting prostitution in the first degree.

(1) A person is guilty of promoting prostitution in the first degree if he knowingly:

- (a) Advances prostitution by compelling a person by threat or force to engage in prostitution or profits from prostitution which results from such threat or force; or
- (b) Advances or profits from prostitution of a person less than eighteen years old.

(2) Promoting prostitution in the first degree is a class B felony. [1975 1st ex.s. c 260 § 9A.88.070.]

9A.88.080 Promoting prostitution in the second degree. (1) A person is guilty of promoting prostitution in the second degree if he knowingly:

- (a) Profits from prostitution; or
- (b) Advances prostitution.

(2) Promoting prostitution in the second degree is a class C felony. [1975 1st ex.s. c 260 § 9A.88.080.]

9A.88.090 Permitting prostitution. (1) A person is guilty of permitting prostitution if, having possession or control of premises which he knows are being used for prostitution purposes, he fails without lawful excuse to make reasonable effort to halt or abate such use.

(2) Permitting prostitution is a misdemeanor. [1975 1st ex.s. c 260 § 9A.88.090.]

9A.88.100 Indecent liberties. (1) A person is guilty of indecent liberties when he knowingly causes another person who is not his spouse to have sexual contact with him or another:

- (a) By forcible compulsion; or
- (b) When the other person is less than fourteen years of age; or
- (c) When the other person is incapable of consent by reason of being mentally defective, mentally incapacitated, or physically helpless.

(2) For purposes of this section, "sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party.

(3) Indecent liberties is a class B felony. [1975 1st ex.s. c 260 § 9A.88.100.]

Chapter 9A.98 LAWS REPEALED

Sections

- 9A.98.010 Acts or parts of acts repealed.
9A.98.020 Savings clause.

9A.98.010 Acts or parts of acts repealed. The following acts or parts of acts are each hereby repealed:

- (1) Section 51, chapter 249, Laws of 1909 and RCW 9.01.010;
- (2) Section 11, page 78, Laws of 1854, section 11, page 106, Laws of 1859, section 11, page 200, Laws of 1869, section 11, page 200, Laws of 1873, section 781, Code of 1881, section 1, chapter 249, Laws of 1909 and RCW 9.01.020;
- (3) Section 125, page 98, Laws of 1854, section 124, page 129, Laws of 1859, section 134, page 229, Laws of 1869, section 140, page 213, Laws of 1873, section 957,

Code of 1881, section 8, chapter 249, Laws of 1909 and RCW 9.01.030;

(4) Section 2, chapter 249, Laws of 1909 and RCW 9.01.040;

(5) Section 2, chapter 249, Laws of 1909 and RCW 9.01.050;

(6) Section 127, page 98, Laws of 1854, section 136, page 229, Laws of 1869, section 142, page 213, Laws of 1873, section 956, Code of 1881, section 10, chapter 249, Laws of 1909 and RCW 9.01.060;

(7) Section 30, page 185, Laws of 1873, section 1161, Code of 1881, section 12, chapter 249, Laws of 1909 and RCW 9.01.070;

(8) Section 1, chapter 233, Laws of 1927 and RCW 9.01.080;

(9) Section 784, Code of 1881, section 17, chapter 249, Laws of 1909 and RCW 9.01.090;

(10) Section 18, chapter 249, Laws of 1909 and RCW 9.01.100;

(11) Section 5, chapter 249, Laws of 1909 and RCW 9.01.111;

(12) Section 4, chapter 249, Laws of 1909 and RCW 9.01.112;

(13) Section 3, chapter 249, Laws of 1909 and RCW 9.01.113;

(14) Section 6, chapter 249, Laws of 1909 and RCW 9.01.114;

(15) Section 2, chapter 76, Laws of 1967 and RCW 9.01.116;

(16) Section 1, Code of 1881, section 47, chapter 249, Laws of 1909 and RCW 9.01.150;

(17) Section 46, chapter 249, Laws of 1909 and RCW 9.01.170;

(18) Section 48, chapter 249, Laws of 1909 and RCW 9.01.180;

(19) Section 49, chapter 249, Laws of 1909 and RCW 9.01.190;

(20) Section 376, chapter 249, Laws of 1909 and RCW 9.08.040;

(21) Section 40, page 82, Laws of 1854, section 44, page 189, Laws of 1873, section 823, Code of 1881, section 40, page 77, Laws of 1886, section 1, chapter 87, Laws of 1895, section 320, chapter 249, Laws of 1909, section 1, chapter 11, Laws of 1863 [1963] and RCW 9.09.010;

(22) Section 40, page 82, Laws of 1854, section 44, page 189, Laws of 1873, section 823, Code of 1881, section 40, page 77, Laws of 1886, section 1, chapter 87, Laws of 1895, section 321, chapter 249, Laws of 1909, section 1, chapter 265, Laws of 1927, section 2, chapter 11, Laws of 1963, section 1, chapter 17, Laws of 1965 ex. sess. and RCW 9.09.020;

(23) Section 322, chapter 249, Laws of 1909 and RCW 9.09.030;

(24) Section 323, chapter 249, Laws of 1909 and RCW 9.09.040;

(25) Section 324, chapter 249, Laws of 1909 and RCW 9.09.050;

(26) Section 6, chapter 87, Laws of 1895, section 325, chapter 249, Laws of 1909 and RCW 9.09.060;

(27) Section 24, page 79, Laws of 1854, section 28, page 80, Laws of 1854, sections 24 through 30, page

202, Laws of 1869, sections 29 through 34, page 185, Laws of 1873, sections 801 through 809, Code of 1881, section 161, chapter 249, Laws of 1909 and RCW 9.11.010;

(28) Section 24, page 79, Laws of 1854, section 28, page 80, Laws of 1854, sections 24 through 30, page 202, Laws of 1869, sections 29 through 34, page 185, Laws of 1873, sections 801 through 809, Code of 1881, section 162, chapter 249, Laws of 1909 and RCW 9.11.020;

(29) Section 24, page 79, Laws of 1854, section 28, page 80, Laws of 1854, sections 24 through 30, page 202, Laws of 1869, sections 29 through 34, page 185, Laws of 1873, sections 801 through 809, Code of 1881, section 163, chapter 249, Laws of 1909 and RCW 9.11.030;

(30) Section 164, chapter 249, Laws of 1909 and RCW 9.11.040;

(31) Section 165, chapter 249, Laws of 1909 and RCW 9.11.050;

(32) Section 122, page 226, Laws of 1869, section 128, page 210, Laws of 1873, section 945, Code of 1881, sections 6 and 7, chapter 149, Laws of 1895, section 201, chapter 249, Laws of 1909 and RCW 9.15.010;

(33) Section 202, chapter 249, Laws of 1909 and RCW 9.15.020;

(34) Sections 74 and 75, page 89, Laws of 1854, section 75, page 119, Laws of 1859, section 80, page 216, Laws of 1869, section 84, page 200, Laws of 1873, section 880, Code of 1881, section 68, chapter 249, Laws of 1909 and RCW 9.18.010;

(35) Section 74, page 89, Laws of 1854, section 74, page 119, Laws of 1859, section 79, page 216, Laws of 1869, section 83, page 200, Laws of 1873, section 879, Code of 1881, section 69, chapter 249, Laws of 1909 and RCW 9.18.020;

(36) Section 73, page 89, Laws of 1854–55, section 73, page 118, Laws of 1859–60, section 78, page 216, Laws of 1869, section 82, page 199, Laws of 1873, section 878, Code of 1881, section 70, chapter 249, Laws of 1909 and RCW 9.18.030;

(37) Section 71, page 89, Laws of 1854, section 71, page 118, Laws of 1859, section 77, page 216, Laws of 1869, section 81, page 199, Laws of 1873, section 877, Code of 1881, section 71, chapter 249, Laws of 1909 and RCW 9.18.040;

(38) Section 72, chapter 249, Laws of 1909 and RCW 9.18.050;

(39) Section 84, page 200, Laws of 1873, section 880, Code of 1881, section 73, chapter 249, Laws of 1909 and RCW 9.18.060;

(40) Section 74, chapter 249, Laws of 1909 and RCW 9.18.070;

(41) Section 79, page 90, Laws of 1854, section 885, Code of 1881, section 79, chapter 249, Laws of 1909 and RCW 9.18.090;

(42) Section 75, page 89, Laws of 1854, section 880, Code of 1881, section 80, chapter 249, Laws of 1909 and RCW 9.18.100;

(43) Section 81, chapter 249, Laws of 1909 and RCW 9.18.110;

(44) Section 44, page 83, Laws of 1854, section 48, page 190, Laws of 1873, section 827, Code of 1881, section 1, page 14, Laws of 1888, section 326, chapter 249, Laws of 1909 and RCW 9.19.010;

(45) Section 44, page 83, Laws of 1854, section 48, page 190, Laws of 1873, section 827, Code of 1881, section 1, page 14, Laws of 1888, section 327, chapter 249, Laws of 1909 and RCW 9.19.020;

(46) Section 49, page 190, Laws of 1873, section 828, Code of 1881, section 328, chapter 249, Laws of 1909 and RCW 9.19.030;

(47) Section 329, chapter 249, Laws of 1909 and RCW 9.19.040;

(48) Section 1, chapter 90, Laws of 1893, section 330, chapter 249, Laws of 1909 and RCW 9.19.050;

(49) Section 130, chapter 249, Laws of 1909 and RCW 9.22.010;

(50) Section 131, chapter 249, Laws of 1909 and RCW 9.22.020;

(51) Section 132, chapter 249, Laws of 1909 and RCW 9.22.030;

(52) Section 1, chapter 211, Laws of 1961 and RCW 9.22.040;

(53) Section 1, page 15, Laws of 1862, section 70, page 196, Laws of 1873, sections 856 and 857, Code of 1881, section 339, chapter 249, Laws of 1909 and RCW 9.26.010;

(54) Section 340, chapter 249, Laws of 1909 and RCW 9.26.020;

(55) Section 7, page 15, Laws of 1862, section 70, page 196, Laws of 1873, section 857, Code of 1881 and RCW 9.26.030;

(56) Section 1, chapter 36, Laws of 1970 ex. sess. and RCW 9.26A.010;

(57) Section 2, chapter 36, Laws of 1970 ex. sess. and RCW 9.26A.020;

(58) Section 3, chapter 36, Laws of 1970 ex. sess. and RCW 9.26A.030;

(59) Section 4, chapter 36, Laws of 1970 ex. sess. and RCW 9.26A.040;

(60) Section 5, chapter 36, Laws of 1970 ex. sess. and RCW 9.26A.050;

(61) Section 6, chapter 36, Laws of 1970 ex. sess. and RCW 9.26A.060;

(62) Section 7, chapter 36, Laws of 1970 ex. sess. and RCW 9.26A.070;

(63) Section 8, chapter 36, Laws of 1970 ex. sess. and RCW 9.26A.080;

(64) Section 295, chapter 249, Laws of 1909 and RCW 9.27.010;

(65) Section 282, chapter 249, Laws of 1909 and RCW 9.27.020;

(66) Section 309, chapter 249, Laws of 1909 and RCW 9.27.030;

(67) Section 64, page 87, Laws of 1854, sections 73 and 74, page 197, Laws of 1873, sections 859 through 861, Code of 1881, section 296, chapter 249, Laws of 1909 and RCW 9.27.040;

(68) Section 65, page 87, Laws of 1854, sections 73 and 74, page 197, Laws of 1873, sections 859 through 861, Code of 1881, section 297, chapter 249, Laws of 1909 and RCW 9.27.050;

(69) Section 65, page 87, Laws of 1854, sections 73 and 74, page 197, Laws of 1873, sections 859 through 861, Code of 1881, section 298, chapter 249, Laws of 1909 and RCW 9.27.060;

(70) Sections 65 and 66, page 87, Laws of 1854, sections 73 and 74, page 197, Laws of 1873, sections 859 through 861, Code of 1881, section 299, chapter 249, Laws of 1909 and RCW 9.27.070;

(71) Section 863, Code of 1881, section 300, chapter 249, Laws of 1909 and RCW 9.27.080;

(72) Section 301, chapter 249, Laws of 1909 and RCW 9.27.090;

(73) Section 302, chapter 249, Laws of 1909 and RCW 9.27.100;

(74) Section 22, page 79, Laws of 1854, section 22, page 202, Laws of 1869, section 799, Code of 1881, section 167, chapter 249, Laws of 1909 and RCW 9.30.010;

(75) Section 23, page 79, Laws of 1854, section 23, page 202, Laws of 1869, section 25, page 185, Laws of 1873, section 800, Code of 1881, section 168, chapter 249, Laws of 1909 and RCW 9.30.020;

(76) Section 169, chapter 249, Laws of 1909 and RCW 9.30.030;

(77) Section 170, chapter 249, Laws of 1909 and RCW 9.30.040;

(78) Section 171, chapter 249, Laws of 1909 and RCW 9.30.050;

(79) Section 1, chapter 320, Laws of 1955 and RCW 9.31.005;

(80) Section 90, chapter 249, Laws of 1909, section 2, chapter 320, Laws of 1955 and RCW 9.31.010;

(81) Section 76, page 89, Laws of 1854, section 85, page 200, Laws of 1873, section 881, Code of 1881, sections 1 and 2, chapter 46, Laws of 1905, section 91, chapter 249, Laws of 1909 and RCW 9.31.020;

(82) Section 77, page 90, Laws of 1854, section 86, page 201, Laws of 1873, section 882, Code of 1881, section 92, chapter 249, Laws of 1909 and RCW 9.31.030;

(83) Section 77, page 90, Laws of 1854, sections 86 and 87, page 201, Laws of 1873, section 882, Code of 1881, section 93, chapter 249, Laws of 1909 and RCW 9.31.040;

(84) Section 94, chapter 249, Laws of 1909 and RCW 9.31.050;

(85) Section 87, chapter 249, Laws of 1909 and RCW 9.31.060;

(86) Section 88, chapter 249, Laws of 1909 and RCW 9.31.070;

(87) Section 125, chapter 249, Laws of 1909 and RCW 9.31.080;

(88) Section 1, chapter 182, Laws of 1951 and RCW 9.31.100;

(89) Section 822, Code of 1881, section 358, chapter 249, Laws of 1909 and RCW 9.33.010;

(90) Section 87, page 91, Laws of 1854, section 96, page 203, Laws of 1873, section 894, Code of 1881, section 359, chapter 249, Laws of 1909 and RCW 9.33.020;

(91) Section 87, page 91, Laws of 1854, section 96, page 203, Laws of 1873, section 894, Code of 1881, section 360, chapter 249, Laws of 1909 and RCW 9.33.040;

(92) Section 822, Code of 1881, section 361, chapter 249, Laws of 1909 and RCW 9.33.050;

(93) Section 362, chapter 249, Laws of 1909 and RCW 9.33.060;

(94) Section 108, page 95, Laws of 1854, section 119, page 208, Laws of 1873, section 923, Code of 1881 and RCW 9.33.070;

(95) Section 363, chapter 249, Laws of 1909 and RCW 9.34.010;

(96) Section 364, chapter 249, Laws of 1909 and RCW 9.34.020;

(97) Section 365, chapter 249, Laws of 1909 and RCW 9.37.010;

(98) Section 367, chapter 249, Laws of 1909 and RCW 9.37.020;

(99) Section 421, chapter 249, Laws of 1909 and RCW 9.37.030;

(100) Section 422, chapter 249, Laws of 1909 and RCW 9.37.040;

(101) Section 1, chapter 46, Laws of 1911 and RCW 9.37.050;

(102) Section 1, chapter 78, Laws of 1937 and RCW 9.37.060;

(103) Section 370, chapter 249, Laws of 1909 and RCW 9.38.030;

(104) Section 409, chapter 249, Laws of 1909 and RCW 9.38.050;

(105) Section 267, chapter 249, Laws of 1909 and RCW 9.40.010;

(106) Section 268, chapter 249, Laws of 1909 and RCW 9.40.020;

(107) Section 269, chapter 249, Laws of 1909 and RCW 9.40.030;

(108) Section 847, Code of 1881, section 9, page 127, Laws of 1890 and RCW 9.40.050;

(109) Section 2, page 300, Laws of 1877, section 1225, Code of 1881, section 13, chapter 69, Laws of 1891 and RCW 9.40.060;

(110) Section 1, page 300, Laws of 1877, section 1224, Code of 1881, section 14, chapter 69, Laws of 1891 and RCW 9.40.070;

(111) Section 4, page 300, Laws of 1877, section 1227, Code of 1881, section 15, chapter 69, Laws of 1891 and RCW 9.40.080;

(112) Section 338, chapter 249, Laws of 1909 and RCW 9.44.010;

(113) Section 57, page 85, Laws of 1854, section 63, page 194, Laws of 1873, section 854, Code of 1881, section 331, chapter 249, Laws of 1909 and RCW 9.44.020;

(114) Section 332, chapter 249, Laws of 1909 and RCW 9.44.030;

(115) Section 57, page 85, Laws of 1854, section 63, page 194, Laws of 1873, section 854, Code of 1881, section 333, chapter 249, Laws of 1909 and RCW 9.44.040;

(116) Section 334, chapter 249, Laws of 1909 and RCW 9.44.050;

(117) Section 57, page 85, Laws of 1854, section 63, page 194, Laws of 1873, section 854, Code of 1881, section 335, chapter 249, Laws of 1909 and RCW 9.44.060;

(118) Section 336, chapter 249, Laws of 1909 and RCW 9.44.070;

(119) Section 122, chapter 249, Laws of 1909 and RCW 9.45.010;

(120) Section 219, chapter 249, Laws of 1909 and RCW 9.45.030;

(121) Section 375, chapter 249, Laws of 1909 and RCW 9.45.050;

(122) Section 1, page 99, Laws of 1890 and RCW 9.45.200;

(123) Section 138, chapter 249, Laws of 1909, section 1, chapter 49, Laws of 1970 ex. sess. and RCW 9.48.010;

(124) Section 139, chapter 249, Laws of 1909 and RCW 9.48.020;

(125) Section 12, page 78, Laws of 1854, section 12, page 200, Laws of 1869, section 12, page 182, Laws of 1873, section 786, Code of 1881, section 1, chapter 69, Laws of 1891, section 140, chapter 249, Laws of 1909 and RCW 9.48.030;

(126) Section 13, page 78, Laws of 1854, sections 13 and 14, page 200, Laws of 1869, section 13, page 182, Laws of 1873, section 790, Code of 1881, section 141, chapter 249, Laws of 1909 and RCW 9.48.040;

(127) Section 14, page 78, Laws of 1854, section 14, page 201, Laws of 1869, section 16, page 183, Laws of 1873, section 791, Code of 1881, section 142, chapter 249, Laws of 1909 and RCW 9.48.050;

(128) Section 16, page 78, Laws of 1854, section 16, page 201, Laws of 1869, section 18, page 183, Laws of 1873, section 793, Code of 1881, section 2, chapter 69, Laws of 1891, section 143, chapter 249, Laws of 1909, section 2, chapter 49, Laws of 1970 ex. sess. and RCW 9.48.060;

(129) Sections 37 and 38, page 81, Laws of 1854, sections 37 and 38, page 209, Laws of 1863, sections 41 and 42, page 188, Laws of 1873, section 820, Code of 1881, section 144, chapter 249, Laws of 1909 and RCW 9.48.070;

(130) Sections 37 and 38, page 81, Laws of 1854, sections 37 and 38, page 209, Laws of 1863, sections 41 and 42, page 188, Laws of 1873, section 821, Code of 1881, section 145, chapter 249, Laws of 1909 and RCW 9.48.080;

(131) Section 146, chapter 249, Laws of 1909 and RCW 9.48.090;

(132) Section 147, chapter 249, Laws of 1909 and RCW 9.48.100;

(133) Section 18, page 78, Laws of 1854, section 18, page 201, Laws of 1869, section 20, page 184, Laws of 1873, section 795, Code of 1881, section 148, chapter 249, Laws of 1909 and RCW 9.48.110;

(134) Section 19, page 78, Laws of 1854, section 19, page 201, Laws of 1869, section 21, page 184, Laws of 1873, section 796, Code of 1881, section 149, chapter 249, Laws of 1909 and RCW 9.48.120;

(135) Section 124, page 97, Laws of 1854, section 130, page 227, Laws of 1869, section 136, page 211, Laws of 1873, section 995 [955], Code of 1881, section 150, chapter 249, Laws of 1909 and RCW 9.48.130;

(136) Section 151, chapter 249, Laws of 1909 and RCW 9.48.140;

(137) Section 152, chapter 249, Laws of 1909 and RCW 9.48.150;

(138) Section 153, chapter 249, Laws of 1909 and RCW 9.48.160;

(139) Section 154, chapter 249, Laws of 1909 and RCW 9.48.170;

(140) Section 1, chapter 6, Laws of 1933 ex. sess. and RCW 9.52.010;

(141) Section 3, chapter 6, Laws of 1933 ex. sess. and RCW 9.52.020;

(142) Section 159, chapter 249, Laws of 1909 and RCW 9.52.030;

(143) Section 36, page 84, Laws of 1854, section 38, page 205, Laws of 1869, section 40, page 187, Laws of 1873, section 819, Code of 1881, section 160, chapter 249, Laws of 1909 and RCW 9.52.040;

(144) Section 45, page 83, Laws of 1854, section 50, page 190, Laws of 1873, section 830, Code of 1881, section 349, chapter 249, Laws of 1909, section 3, chapter 165, Laws of 1915 and RCW 9.54.010;

(145) Section 1, chapter 155, Laws of 1915, section 1, chapter 64, Laws of 1919 and RCW 9.54.020;

(146) Section 1, chapter 60, Laws of 1917, section 1, chapter 124, Laws of 1974 ex. sess. and RCW 9.54.030;

(147) Section 2, chapter 60, Laws of 1917 and RCW 9.54.040;

(148) Section 1, chapter 156, Laws of 1915 and RCW 9.54.050;

(149) Section 350, chapter 249, Laws of 1909 and RCW 9.54.060;

(150) Section 351, chapter 249, Laws of 1909 and RCW 9.54.070;

(151) Section 352, chapter 249, Laws of 1909 and RCW 9.54.080;

(152) Section 353, chapter 249, Laws of 1909, section 1, chapter 97, Laws of 1955 and RCW 9.54.090;

(153) Section 354, chapter 249, Laws of 1909 and RCW 9.54.100;

(154) Section 355, chapter 249, Laws of 1909 and RCW 9.54.110;

(155) Section 1, chapter 63, Laws of 1961 and RCW 9.54.115;

(156) Section 356, chapter 249, Laws of 1909 and RCW 9.54.120;

(157) Section 1, chapter 32, Laws of 1965 and RCW 9.54.140;

(158) Section 85, chapter 249, Laws of 1909 and RCW 9.55.010;

(159) Section 1, chapter 111, Laws of 1899, section 1, chapter 112, Laws of 1903, section 404, chapter 249, Laws of 1909, section 2, chapter 152, Laws of 1971 ex. sess. and RCW 9.61.010;

(160) Section 1, chapter 64, Laws of 1893, section 1, chapter 41, Laws of 1897, section 405, chapter 249, Laws of 1909, section 3, chapter 152, Laws of 1971 ex. sess. and RCW 9.61.020;

(161) Section 16, chapter 69, Laws of 1891, section 406, chapter 249, Laws of 1909, section 4, chapter 152, Laws of 1971 ex. sess. and RCW 9.61.030;

(162) Section 1, page 30, Laws of 1862, section 1, page 300, Laws of 1877, sections 842, 843, 847, 848, 1224, Code of 1881, section 5, page 126, Laws of 1890, section 11, page 122, Laws of 1890, section 10, page 127, Laws of 1890, sections 4, 8, 11, 12, 13, 14, 16, 17, chapter 69, Laws of 1891, section 1, chapter 83, Laws of 1897, section 407, chapter 249, Laws of 1909, section 5,

chapter 152, Laws of 1971 ex. sess., section 1, chapter 28, Laws of 1975 and RCW 9.61.040;

(163) Section 408, chapter 249, Laws of 1909, section 6, chapter 152, Laws of 1971 ex. sess. and RCW 9.61.050;

(164) Section 414, chapter 249, Laws of 1909 and RCW 9.61.060;

(165) Section 415, chapter 249, Laws of 1909, section 1, chapter 152, Laws of 1971 ex. sess. and RCW 9.61.070;

(166) Section 2, page 71, Laws of 1883, section 17, chapter 69, Laws of 1891 and RCW 9.61.080;

(167) Section 1, chapter 114, Laws of 1899, section 7, chapter 152, Laws of 1971 ex. sess. and RCW 9.61.090;

(168) Section 2, chapter 114, Laws of 1899 and RCW 9.61.100;

(169) Section 3, chapter 114, Laws of 1899 and RCW 9.61.110;

(170) Section 1, chapter 133, Laws of 1963 and RCW 9.61.220;

(171) Section 26, page 79, Laws of 1854, section 26, page 202, Laws of 1869, section 28, page 185, Laws of 1873, section 103, Code of 1881, section 155, chapter 249, Laws of 1909 and RCW 9.65.010;

(172) Section 156, chapter 249, Laws of 1909 and RCW 9.65.020;

(173) Section 157, chapter 249, Laws of 1909 and RCW 9.65.030;

(174) Section 303, chapter 249, Laws of 1909 and RCW 9.69.010;

(175) Section 78, page 90, Laws of 1854, section 87, page 201, Laws of 1873, section 883, Code of 1881, section 112, chapter 249, Laws of 1909 and RCW 9.69.020;

(176) Section 79, page 90, Laws of 1854, section 88, page 201, Laws of 1873, section 886, Code of 1881, section 113, chapter 249, Laws of 1909 and RCW 9.69.030;

(177) Section 79, page 90, Laws of 1854, section 88, page 201, Laws of 1873, section 885, Code of 1881, section 114, chapter 249, Laws of 1909 and RCW 9.69.040;

(178) Section 116, chapter 249, Laws of 1909 and RCW 9.69.050;

(179) Section 420, chapter 249, Laws of 1909 and RCW 9.69.060;

(180) Section 110, chapter 249, Laws of 1909 and RCW 9.69.070;

(181) Section 1, chapter 17, Laws of 1901, section 111, chapter 249, Laws of 1909, section 1, chapter 56, Laws of 1969 ex. sess. and RCW 9.69.080;

(182) Section 115, chapter 249, Laws of 1909 and RCW 9.69.090;

(183) Section 69, page 88, Laws of 1854, section 69, page 118, Laws of 1859, section 79, page 199, Laws of 1873, section 867, Code of 1881, section 99, chapter 249, Laws of 1909, section 1, chapter 46, Laws of 1957 and RCW 9.72.010;

(184) Section 870, Code of 1881, section 100, chapter 249, Laws of 1909 and RCW 9.72.020;

(185) Section 101, chapter 249, Laws of 1909 and RCW 9.72.030;

(186) Section 868, Code of 1881, section 102, chapter 249, Laws of 1909 and RCW 9.72.040;

(187) Section 869, Code of 1881, section 103, chapter 249, Laws of 1909 and RCW 9.72.050;

(188) Section 872, Code of 1881, section 104, chapter 249, Laws of 1909, section 2, chapter 46, Laws of 1957 and RCW 9.72.060;

(189) Section 873, Code of 1881, section 105, chapter 249, Laws of 1909 and RCW 9.72.070;

(190) Section 106, chapter 249, Laws of 1909 and RCW 9.72.080;

(191) Section 81, page 199, Laws of 1873, section 876, Code of 1881, section 108, chapter 249, Laws of 1909 and RCW 9.72.100;

(192) Section 71, page 89, Laws of 1854, section 77, page 216, Laws of 1869, section 81, page 199, Laws of 1873, section 877, Code of 1881, section 109, chapter 249, Laws of 1909 and RCW 9.72.110;

(193) Sections 3 and 4, page 81, Laws of 1854, section 36, page 204, Laws of 1869, section 38, page 187, Laws of 1873, section 829, Code of 1881, section 166, chapter 249, Laws of 1909 and RCW 9.75.010;

(194) Section 399, chapter 249, Laws of 1909 and RCW 9.75.020;

(195) Section 6, page 126, Laws of 1890 and RCW 9.75.030;

(196) Section 244, chapter 249, Laws of 1909 and RCW 9.76.020;

(197) Section 245, chapter 249, Laws of 1909 and RCW 9.76.030;

(198) Section 246, chapter 249, Laws of 1909 and RCW 9.76.040;

(199) Section 865, Code of 1881, section 247, chapter 249, Laws of 1909 and RCW 9.76.050;

(200) Section 1, chapter 229, Laws of 1959, section 1, chapter 76, Laws of 1967 and RCW 9.78.010;

(201) Section 2, chapter 229, Laws of 1959 and RCW 9.78.020;

(202) Section 4, chapter 229, Laws of 1959 and RCW 9.78.040;

(203) Section 813, Code of 1881, section 186, chapter 249, Laws of 1909, section 125, chapter 154, Laws of 1973 1st ex. sess. and RCW 9.79.040;

(204) Section 815, Code of 1881, section 187, chapter 249, Laws of 1909, section 126, chapter 154, Laws of 1973 1st ex. sess. and RCW 9.79.050;

(205) Section 188, chapter 249, Laws of 1909, section 1, chapter 186, Laws of 1927, section 127, chapter 154, Laws of 1973 1st ex. sess. and RCW 9.79.060;

(206) Section 816, Code of 1881, section 1, chapter 33, Laws of 1905, section 189, chapter 249, Laws of 1909, section 128, chapter 154, Laws of 1973 1st ex. sess. and RCW 9.79.070;

(207) Section 190, chapter 249, Laws of 1909, section 2, chapter 74, Laws of 1937, section 1, chapter 127, Laws of 1955, section 129, chapter 154, Laws of 1973 1st ex. sess. and RCW 9.79.080;

(208) Section 121, page 225, Laws of 1869, section 127, page 209, Laws of 1873, sections 1 and 2, chapter 149, Laws of 1895, section 203, chapter 249, Laws of 1909, section 1, chapter 111, Laws of 1943 and RCW 9.79.090;

(209) Section 2, chapter 139, Laws of 1893, section 204, chapter 249, Laws of 1909, section 3, chapter 74, Laws of 1937 and RCW 9.79.100;

(210) Section 120, page 225, Laws of 1869, section 126, page 209, Laws of 1873, sections 943, 944, Code of 1881, sections 3, 4, chapter 149, Laws of 1895, section 205, chapter 249, Laws of 1909, section 1, chapter 98, Laws of 1917 and RCW 9.79.110;

(211) Section 117, page 95, Laws of 1854, section 120, page 225, Laws of 1869, section 126, page 209, Laws of 1873, section 948, Code of 1881, section 206, chapter 249, Laws of 1909 and RCW 9.79.120;

(212) Section 2, chapter 65, Laws of 1961 and RCW 9.79.130;

(213) Section 133, chapter 249, Laws of 1909 and RCW 9.80.010;

(214) Section 134, chapter 249, Laws of 1909 and RCW 9.80.020;

(215) Section 17, page 78, Laws of 1854, section 17, page 201, Laws of 1869, section 19, page 184, Laws of 1873, section 794, Code of 1881, section 135, chapter 249, Laws of 1909 and RCW 9.80.030;

(216) Section 136, chapter 249, Laws of 1909 and RCW 9.80.040;

(217) Section 137, chapter 249, Laws of 1909 and RCW 9.80.050;

(218) Section 412, chapter 249, Laws of 1909 and RCW 9.83.010;

(219) Section 1, chapter 128, Laws of 1913 and RCW 9.83.020;

(220) Section 2, chapter 128, Laws of 1913 and RCW 9.83.030;

(221) Section 3, chapter 128, Laws of 1913 and RCW 9.83.040;

(222) Section 4, chapter 128, Laws of 1913 and RCW 9.83.050;

(223) Section 1, page 124, Laws of 1890, section 413, chapter 249, Laws of 1909, section 1, chapter 139, Laws of 1913 and RCW 9.83.060;

(224) Section 64, page 212, Laws of 1869, section 67, page 195, Laws of 1873 and RCW 9.83.070;

(225) Section 1, chapter 7, Laws of 1969 and RCW 9.83.080;

(226) Section 1, page 85, Laws of 1875, section 1271, Code of 1881, section 436, chapter 249, Laws of 1909, section 1, chapter 11 [112], Laws of 1965, section 29, chapter 122, Laws of 1972 ex. sess. and RCW 9.87.010;

(227) Section 1, chapter 62, Laws of 1915 and RCW 9.87.020;

(228) Section 3, page 90, Laws of 1875, section 1273, Code of 1881 and RCW 9.87.030;

(229) Section 932, Code of 1881 and RCW 9.91.040;

(230) Section 382, chapter 249, Laws of 1909 and RCW 9.91.070;

(231) Section 383, chapter 249, Laws of 1909 and RCW 9.91.080;

(232) Section 4 [6], chapter 241, Laws of 1955 and RCW 9.94.060;

(233) Section 3, chapter 28, Laws of 1891 and RCW 10.01.010; and

(234) Section 10, page 77, Laws of 1854, section 779, Code 1881, section 2, chapter 28, Laws of 1891, section

1, chapter 12, Laws of 1937 and RCW 10.01.020. [1975 1st ex.s. c 260 § 9A.92.010.]

9A.98.020 Savings clause. The laws repealed by RCW 9A.98.010 are repealed except with respect to rights and duties which matured, penalties which were incurred, and proceedings which were begun before July 1, 1976. [1975 1st ex.s. c 260 § 9A.92.020.]

Title 10 CRIMINAL PROCEDURE

Chapters

- 10.01** General provisions.
- 10.05** Deferred prosecution—Courts of limited jurisdiction.
- 10.19** Bail and appearance bonds.

Chapter 10.01 GENERAL PROVISIONS

Sections

- 10.01.010 Repealed. (Effective July 1, 1976.)
- 10.01.020 Repealed. (Effective July 1, 1976.)
- 10.01.112 Recodified as RCW 4.88.330.
- 10.01.113 Indigent party—State to pay costs and fees incident to review by supreme court or court of appeals.
- 10.01.150 Charges arising from official acts of state officers or employees—Defense by attorney general.

10.01.010 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.01.020 Repealed. (Effective July 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.01.112 Recodified as RCW 4.88.330. See Supplementary Table of Disposition of Former RCW Sections, this volume.

10.01.113 Indigent party—State to pay costs and fees incident to review by supreme court or court of appeals. See RCW 4.88.330.

10.01.150 Charges arising from official acts of state officers or employees—Defense by attorney general. Whenever a state officer or employee is charged with a criminal offense arising out of the performance of an official act which was fully in conformity with established written rules, policies, and guidelines of the state or state agency, the employing agency may request the attorney general to defend the officer or employee. If the agency finds, and the attorney general concurs, that the officer's or employee's conduct was fully in accordance with established written rules, policies, and guidelines of the state or a state agency and the act performed was within the scope of employment, then the request shall be granted and the costs of defense

shall be paid by the requesting agency: *Provided, however,* If the agency head is the person charged, then approval must be obtained from both the attorney general and the state auditor. If the court finds that the officer or employee was performing an official act, or was within the scope of employment, and that his actions were in conformity with the established rules, regulations, policies, and guidelines of the state and the state agency, the cost of any monetary fine assessed shall be paid from the tort claims revolving fund. [1975 1st ex.s. c 144 § 1.]

Chapter 10.05
DEFERRED PROSECUTION—COURTS
OF LIMITED JURISDICTION

Sections

10.05.010	Eligibility—Time for petition.
10.05.020	Requirements of petition.
10.05.030	Arraignment continued—Referral to treatment facility.
10.05.040	Investigation and examination by treatment facility.
10.05.050	Report to court by treatment facility—Recommended treatment plan.
10.05.060	Docket and abstract procedure upon approval of treatment plan.
10.05.070	Defendant arraigned when treatment rejected.
10.05.080	Evidence, uses and admissibility.
10.05.090	Procedure upon breach of treatment plan.
10.05.100	Conviction of similar offense.
10.05.110	Trial delay not grounds for dismissal.
10.05.120	Dismissal of charges after two years—Records removed.
10.05.130	Services provided for indigent defendants.

10.05.010 Eligibility—Time for petition. Upon arraignment in a court of limited jurisdiction a person charged with a misdemeanor or gross misdemeanor may petition the court to be considered for a deferred prosecution program. [1975 1st ex.s. c 244 § 1.]

10.05.020 Requirements of petition. The petition shall allege that the wrongful conduct charged is the result of or caused by alcohol problems, drug problems, or mental problems for which the person is in need of treatment and unless treated the probability of future reoccurrence is great, along with a statement that the person agrees to pay the cost of a diagnosis of the alleged problem or problems if financially able to do so. The petition shall also contain a case history of the person supporting the allegations. [1975 1st ex.s. c 244 § 2.]

10.05.030 Arraignment continued—Referral to treatment facility. The arraignment judge upon consideration of the petition and with the concurrence of the prosecuting attorney may continue the arraignment and refer such person for a diagnostic investigation and evaluation to an approved alcoholism treatment facility as designated in chapter 70.96A RCW, if the petition alleges an alcohol problem, an approved drug treatment center as designated in chapter 71.24 RCW, if the petition alleges a drug problem, or to an approved mental health center, if the petition alleges a mental problem. [1975 1st ex.s. c 244 § 3.]

Drug treatment centers: Chapter 69.54 RCW.

10.05.040 Investigation and examination by treatment facility. The facility or center to which such person is referred shall conduct an investigation and examination to determine:

(1) Whether the person suffers from the problem alleged;

(2) Whether the problem is such that if not treated there is a probability that similar misconduct will occur in the future;

(3) Whether extensive and long term treatment is required; and

(4) Whether effective treatment for the person's problem is available. [1975 1st ex.s. c 244 § 4.]

10.05.050 Report to court by treatment facility—Recommended treatment plan. The facility or center shall make a written report to the court stating its findings and recommendations after the investigation and examination required by RCW 10.05.040. If its findings and recommendations support treatment, it shall also recommend a treatment plan setting out:

(1) The type;

(2) Nature;

(3) Length;

(4) A treatment time schedule; and

(5) Approximate cost of the treatment.

The report with the treatment plan shall be filed with the court and a copy given to the defendant and defendant's counsel. [1975 1st ex.s. c 244 § 5.]

10.05.060 Docket and abstract procedure upon approval of treatment plan. If the report recommends treatment, the court shall examine the treatment plan. If it approves the plan and the defendant agrees to comply with its terms and conditions and agrees to pay the cost thereof or arrange for the treatment, an entry shall be made upon the person's court docket showing that the person has been accepted for deferred prosecution. A copy of the treatment plan shall be attached to the docket, which shall then be removed from the regular court dockets and filed in a special court deferred prosecution file. If the charge be one that an abstract is required to be sent to the department of motor vehicles, an abstract of the docket showing the charge and the date of defendant's acceptance for deferred prosecution shall be sent to the department of motor vehicles, which shall make an entry of the charge and of the defendant's acceptance for deferred prosecution on the department's driving record of the defendant. [1975 1st ex.s. c 244 § 6.]

10.05.070 Defendant arraigned when treatment rejected. When treatment is either not recommended or not approved by the judge, or the defendant declines to accept the treatment plan, the defendant shall be arraigned on the charge. [1975 1st ex.s. c 244 § 7.]

10.05.080 Evidence, uses and admissibility. Evidence pertaining to or resulting from the petition and/or investigation is inadmissible in any trial on the charges,

but shall be available for use after a conviction in determining a sentence. [1975 1st ex.s. c 244 § 8.]

10.05.090 Procedure upon breach of treatment plan. If a defendant, who has been accepted for deferred prosecution, fails or neglects to carry out and fulfill any term or condition of the defendant's treatment plan, the facility, center, institution, or agency administering the treatment shall immediately report such breach to the court. The court upon receiving such a report shall hold a hearing to determine whether the defendant should be removed from the deferred prosecution program. At the hearing, evidence shall be taken of the defendant's alleged failure to comply with the treatment plan and the defendant shall have the right to present evidence on his or her own behalf. The court shall either order that the defendant continue on the treatment plan or be removed from deferred prosecution. If removed from deferred prosecution, the defendant's docket shall be returned to the regular court files and the defendant shall be arraigned on the original charge. [1975 1st ex.s. c 244 § 9.]

10.05.100 Conviction of similar offense. If a defendant is convicted in any court of an offense similar and committed subsequent to the one for which the defendant is in a deferred prosecution program, the court in which the defendant is under deferred prosecution shall upon notice of conviction in another court remove the defendant's docket from the deferred prosecution file and require the defendant to enter a plea to the original charge. [1975 1st ex.s. c 244 § 10.]

10.05.110 Trial delay not grounds for dismissal. Delay in bringing a case to trial caused by a defendant requesting deferred prosecution as provided for in this chapter shall not be grounds for dismissal. [1975 1st ex.s. c 244 § 11.]

10.05.120 Dismissal of charges after two years—Records removed. Two years from the date of the court's approval of deferred prosecution for an individual defendant, those dockets that remain in the special court deferred prosecution file relating to such defendant shall be dismissed and the records removed. [1975 1st ex.s. c 244 § 12.]

10.05.130 Services provided for indigent defendants. Funds shall be appropriated from the fines and forfeitures of the court to provide investigation, examination, report and treatment plan for any indigent person who is unable to pay the cost of any program of treatment. [1975 1st ex.s. c 244 § 13.]

Chapter 10.19 BAIL AND APPEARANCE BONDS

Sections

10.19.130 Failure to appear before court after release on personal recognizance—Penalty.

10.19.130 Failure to appear before court after release on personal recognizance—Penalty. Any person, having been released on personal recognizance with the requirement of a subsequent personal appearance before any court of this state, who wilfully fails to appear when so required by the court shall be guilty of a crime. Unless otherwise shown, failure to appear when required shall be presumed to be wilful. The penalty for wilful failure to appear shall be a fine of not more than ten thousand dollars or imprisonment for not more than five years, or both. The penalty imposed under this section shall not exceed the maximum penalty for the original crime charged or, if there has been no charge, the offense for which the person was arrested. [1975 1st ex.s. c 2 § 1.]

Title 11 PROBATE LAW AND PROCEDURE— 1965 ACT

Chapters

- 11.08 Escheats.
- 11.76 Settlement of estates.
- 11.88 Guardianship—Appointment, qualification, removal of guardians and limited guardians.
- 11.92 Guardianship—Powers and duties of guardian and limited guardian.
- 11.94 Power of attorney.

Chapter 11.08 ESCHEATS

Sections

- 11.08.160 Jurisdiction, duties, of department of revenue.
- 11.08.170 Probate of escheat property—Notice to department of revenue.
- 11.08.180 Department of revenue to be furnished copies of documents and pleadings.
- 11.08.200 Liability for use of escheated property.
- 11.08.210 Allowance of claims, etc.—Sale of property—Decree of distribution.
- 11.08.220 Certified copies of decree—Duties of commissioner of public lands.
- 11.08.230 Appearance and claim of heirs—Notices to department of revenue.
- 11.08.240 Limitation on filing claim.
- 11.08.260 Payment of escheated funds to claimant.

11.08.160 Jurisdiction, duties, of department of revenue. The department of revenue of this state shall have supervision of and jurisdiction over escheat property and may institute and prosecute any proceedings deemed necessary or proper in the handling of such property, and it shall be the duty of the department of revenue to protect and conserve escheat property for the benefit of the permanent common school fund of the state until such property or the proceeds thereof have been forwarded to the state treasurer or the state land commissioner as hereinafter provided. [1975 1st ex.s. c 278 § 1; 1965 c 145 § 11.08.160. Prior: 1955 c 254 § 4.]

Severability—1975 1st ex.s. c 278: "If any provision of this 1975 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." [1975 1st ex.s. c 278 § 215.]

Construction—1975 1st ex.s. c 278: "The legislature hereby reaffirms its singular intent under this amendatory act to change the designation of the state tax commission to the department of revenue or the board of tax appeals, as the case may be, and to make explicit its intent that no rights, duties, obligations or benefits, of whatsoever kind, are to be construed as changed as a result of the enactment hereof." [1975 1st ex.s. c 278 § 217.]

11.08.170 Probate of escheat property—Notice to department of revenue. Escheat property may be probated under the provisions of the probate laws of this state. Whenever such probate proceedings are instituted, whether by special administration or otherwise, the petitioner shall promptly notify the department of revenue in writing thereof on forms furnished by the department of revenue to the county clerks. Thereafter, the department of revenue shall be served with written notice at least twenty days prior to any hearing on proceedings involving the valuation or sale of property, on any petition for the allowance of fees, and on all interim reports, final accounts or petitions for the determination of heirship. Like notice shall be given of the presentation of any claims to the court for allowance. Failure to furnish such notice shall be deemed jurisdictional and any order of the court entered without such notice shall be void: *Provided*, That the department of revenue may waive the provisions of this section in its discretion. [1975 1st ex.s. c 278 § 2; 1965 c 145 § 11.08.170. Prior: 1955 c 254 § 5.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

11.08.180 Department of revenue to be furnished copies of documents and pleadings. The department of revenue may demand copies of any papers, documents or pleadings involving the escheat property or the probate thereof deemed by it to be necessary for the enforcement of RCW 11.08.140 through 11.08.280 and it shall be the duty of the administrator or his attorney to furnish such copies to the department. [1975 1st ex.s. c 278 § 3; 1965 c 145 § 11.08.180. Prior: 1955 c 254 § 6.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

11.08.200 Liability for use of escheated property. If any person shall take possession of escheat property without proper authorization to do so, and shall have the use thereof for a period exceeding sixty days, he shall be liable to the state for the reasonable value of such use, payment of which may be enforced by the department of revenue or by the administrator of the estate. [1975 1st ex.s. c 278 § 4; 1965 c 145 § 11.08.200. Prior: 1955 c 254 § 8.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

11.08.210 Allowance of claims, etc.—Sale of property—Decree of distribution. If at the expiration of four months from the date of the first publication of notice to creditors no heirs have appeared and established their claim to the estate, the court may enter an

interim order allowing claims, expenses and partial fees. If at the expiration of sixteen months from the date of issuance of letters testamentary or of administration no heirs have appeared and established their claim to the estate, all personal property not in the form of cash shall be sold under order of the court. Personal property found by the court to be worthless shall be ordered abandoned. Real property shall not be sold for the satisfaction of liens thereon, or for the payment of the debts of decedent or expenses of administration until the proceeds of the personal property are first exhausted. The court shall then enter a decree allowing any additional fees and charges deemed proper and distributing the balance of the cash on hand, together with any real property, to the state. Remittance of cash on hand shall be made to the department of revenue which shall make proper records thereof and forthwith forward such funds to the state treasurer for deposit in the permanent common school fund of the state. [1975 1st ex.s. c 278 § 5; 1965 c 145 § 11.08.210. Prior: 1955 c 254 § 9.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

11.08.220 Certified copies of decree—Duties of commissioner of public lands. The department of revenue shall be furnished two certified copies of the decree of the court distributing any real property to the state, one of which shall be forwarded to the state land commissioner who shall thereupon assume supervision of and jurisdiction over such real property and thereafter handle it the same as state common school lands. The administrator shall also file a certified copy of the decree with the auditor of any county in which the escheated real property is situated. [1975 1st ex.s. c 278 § 6; 1965 c 145 § 11.08.220. Prior: 1957 c 125 § 1; 1955 c 254 § 10.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Management of acquired lands by state land commissioner: RCW 79.01.612.

11.08.230 Appearance and claim of heirs—Notices to department of revenue. Upon the appearance of heirs and the establishment of their claim to the satisfaction of the court prior to entry of the decree of distribution to the estate, the provisions of RCW 11.08.140 through 11.08.280 shall not further apply, except for purposes of appeal: *Provided*, That the department of revenue shall be promptly given written notice of such appearance by the claimants and furnished copies of all papers or documents on which such claim of heirship is based. Any documents in a foreign language shall be accompanied by translations made by a properly qualified translator, certified by him to be true and correct translations of the original documents. The administrator or his attorney shall also furnish the department of revenue with any other available information bearing on the validity of the claim. [1975 1st ex.s. c 278 § 7; 1965 c 145 § 11.08.230. Prior: 1955 c 254 § 11.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

11.08.240 Limitation on filing claim. Any claimant to escheated funds or real property shall have seven years from the date of issuance of letters testamentary or of administration within which to file his claim. Such claim shall be filed with the court having original jurisdiction of the estate, and a copy thereof served upon the department of revenue, together with twenty days notice of the hearing thereon. [1975 1st ex.s. c 278 § 8; 1965 c 145 § 11.08.240. Prior: 1955 c 254 § 12.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

11.08.260 Payment of escheated funds to claimant. In the event the order of the court requires the payment of escheated funds or the proceeds of the sale of escheated real property, a certified copy of such order shall be served upon the department of revenue which shall thereupon take any steps necessary to effect payment to the claimant out of the general fund of the state. [1975 1st ex.s. c 278 § 9; 1965 c 145 § 11.08.260. Prior: 1955 c 254 § 14.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 11.76 SETTLEMENT OF ESTATES

Sections

- 11.76.220 Sale of unclaimed estate—Remittance of proceeds to department of revenue.
11.76.240 Claimant to proceeds of sale.
11.76.245 Procedure when claim made after time limitation.

11.76.220 Sale of unclaimed estate—Remittance of proceeds to department of revenue. If the estate remains in the hands of the agent unclaimed for three years, any property not in the form of cash shall be sold under order of the court, and all funds, after deducting a reasonable sum for expenses and services of the agent, to be fixed by the court, shall be paid into the county treasury. The county treasurer shall issue triplicate receipts therefor, one of which shall be filed with the county auditor, one with the court, and one with the department of revenue. If the funds remain in the county treasury unclaimed for a period of four years and ninety days, the county treasurer shall forthwith remit them to the department of revenue for deposit in the state treasury in the fund in which escheats and forfeitures are by law required to be deposited. [1975 1st ex.s. c 278 § 10; 1965 c 145 § 11.76.220. Prior: 1955 ex.s. c 7 § 4; 1917 c 156 § 167; RRS § 1537.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Escheats: Chapter 11.08 RCW.

11.76.240 Claimant to proceeds of sale. During the time the estate is held by the agent, or within four years after it is delivered to the county treasury, claim may be made thereto only by the absentee person or his legal representative, excepting that if it clearly appears that such person died prior to the decedent in whose estate distribution was made to him, but leaving lineal descendants surviving, such lineal descendants may claim.

If any claim to the estate is made during the period specified above, the claimant shall forthwith notify the department of revenue in writing of such claim. The court, being first satisfied as to the right of such person to the estate, and after the filing of a clearance from the department of revenue, shall order the agent, or the county treasurer, as the case may be, to forthwith deliver the estate, or the proceeds thereof, if sold, to such person. [1975 1st ex.s. c 278 § 11; 1965 c 145 § 11.76.240. Prior: 1955 ex.s. c 7 § 6; 1917 c 156 § 169; RRS § 1539.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

11.76.245 Procedure when claim made after time limitation. After any time limitation prescribed in RCW 11.76.220, 11.76.240 or 11.76.243, the absentee claimant may, at any time, if the assets of the estate have not been claimed under the provisions of RCW 11.76.240 and 11.76.243, notify the department of revenue of his claim to the estate, and file in the court which had jurisdiction of the original probate a petition claiming the assets of the estate. The department of revenue may appear in answer to such petition. Upon proof being made to the probate court that the claimant is entitled to the estate assets, the court shall render its judgment to that effect and the assets shall be paid to the claimant without interest, upon appropriation made by the legislature. [1975 1st ex.s. c 278 § 12; 1965 c 145 § 11.76.245. Prior: 1955 ex.s. c 7 § 8.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 11.88 GUARDIANSHIP—APPOINTMENT, QUALIFICATION, REMOVAL OF GUARDIANS AND LIMITED GUARDIANS

Sections

- 11.88.005 Legislative intent and purpose.
11.88.010 Authority to appoint—Definitions.
11.88.020 Qualifications.
11.88.030 Petition—Contents—Hearing.
11.88.035 Petition—Investigation and report.
11.88.040 Notice and hearing, when required—Service—Procedure.
11.88.045 Legal counsel and jury trial—Proof—Medical report.
11.88.090 Guardian ad litem.
11.88.100 Oath and bond of guardian or limited guardian.
11.88.105 Reduction in amount of bond.
11.88.107 When bond may be dispensed with.
11.88.110 Law on executors' and administrators' bonds applicable.
11.88.115 Notice to department of revenue.
11.88.120 Procedure on removal or death of guardian or limited guardian—Delivery of estate to successor.
11.88.125 Stand-by guardian or limited guardian.
11.88.130 Transfer of jurisdiction and venue.
11.88.140 Termination of guardianship or limited guardianship.
11.88.150 Administration of deceased incompetent's or disabled person's estate.

11.88.005 Legislative intent and purpose. It is the intent and purpose of the legislature to recognize that mentally retarded, developmentally disabled, and other allegedly mentally incompetent persons have special

and unique abilities and competencies with varying degrees of disability.

Such persons must be legally protected without the necessity for determination of total incompetency and without the attendant deprivation of civil and legal rights that such a determination requires. [1975 1st ex.s. c 95 § 1.]

11.88.010 Authority to appoint—Definitions. (1) The superior court of each county shall have power to appoint guardians for the persons and estates, or either thereof, of incompetent persons resident of the county, and guardians for the estates of all such persons who are nonresidents of the state but who have property in such county needing care and attention.

An "incompetent" is any person who is either

(a) Under the age of majority, as defined in RCW 11.92.010, or

(b) Incompetent by reason of insanity, mental illness, mental retardation, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his property or caring for himself or both.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of disabled persons, who by reason of their disability have need for protection and assistance, but who cannot be found to be fully incompetent, upon investigation by the court or any agency jointly designated by the mental health board and mental retardation board (or county social service administrative board where applicable) of the county where such person resides. After considering all evidence presented as a result of such investigation, the court shall impose, by order, only such specific limitations and disabilities on a disabled person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be incompetent nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

For the purposes of chapters 11.88 and 11.92 RCW the term "disabled person" includes, but is not limited to, an individual who is mentally retarded, mentally ill, developmentally disabled, or is gravely disabled. [1975 1st ex.s. c 95 § 2; 1965 c 145 § 11.88.010. Prior: 1917 c 156 § 195; RRS § 1565; prior: Code 1881 § 1604; 1873 p 314 § 299; 1855 p 15 § 1.]

11.88.020 Qualifications. Any suitable person over the age of eighteen years, or any parent under the age of eighteen years may, if not otherwise disqualified, be appointed guardian or limited guardian of the person and/or the estate of an incompetent or disabled person; any trust company regularly organized under the laws of this state and national banks when authorized so to do may act as guardian or limited guardian of the estate

of an incompetent or disabled person; and any non-profit corporation may act as guardian or limited guardian of the person and/or estate of an incompetent or disabled person if the articles of incorporation or bylaws of such corporation permit such action and such corporation is in compliance with all applicable provisions of Title 24 RCW. No person is qualified to serve as a domiciliary guardian who is

(1) under eighteen years of age except as otherwise provided herein;

(2) of unsound mind;

(3) convicted of a felony or of a misdemeanor involving moral turpitude;

(4) a nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

(5) a corporation not authorized to act as a fiduciary, guardian, or limited guardian in the state;

(6) a person whom the court finds unsuitable. [1975 1st ex.s. c 95 § 3; 1971 c 28 § 4; 1965 c 145 § 11.88.020. Prior: 1917 c 156 § 196; RRS § 1566.]

Banks and trust companies may act as guardian: RCW 11.36.010.

11.88.030 Petition—Contents—Hearing. Any interested person or entity may file a petition for the appointment of himself or some other qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 as now or hereafter amended as the guardian or limited guardian of an incompetent or disabled person. A petition for guardianship or limited guardianship shall state:

(1) The name, age, residence and post office address of the incompetent or disabled person;

(2) The nature of his alleged incompetency in accordance with RCW 11.88.010;

(3) The approximate value and description of his property, including any compensation, pension, insurance or allowance to which he may be entitled;

(4) Whether there is, in any state, a guardian or limited guardian for the person or estate of the alleged incompetent or disabled person;

(5) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(6) The names and addresses, so far as known or can be reasonably ascertained, of the persons most closely related by blood or marriage to the alleged incompetent or disabled person;

(7) The name and address of the person or institution having the care and custody of the alleged incompetent or disabled person;

(8) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both;

(9) The nature and degree of the alleged disability and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(10) The requested term of the limited guardianship to be included in the court's order of appointment: *Provided*, That no filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship unless the alleged incompetent or disabled person has an estate valued in excess of fifteen hundred dollars.

All petitions filed under the provisions of this section shall be heard within thirty days. [1975 1st ex.s. c 95 § 4; 1965 c 145 § 11.88.030. Prior: 1927 c 170 § 1; 1917 c 156 § 197; RRS § 1567; prior: 1909 c 118 § 1; 1903 c 130 § 1.]

11.88.035 Petition—Investigation and report. Every petition for guardianship or limited guardianship, the grounds for which allege incompetency or disability as a result of mental illness or mental retardation, shall be referred by the court to an agency to be designated and paid for by the local mental health board and the local mental retardation board (or county social service administrative board where applicable) for an impartial investigation and report relating to the degree of incompetency or disability, the appropriateness of the petitioned for guardian or limited guardian, and the limits to be placed upon the disabled person should a limited guardianship be ordered. The investigation and report shall be made and forwarded to the court, with copies to the alleged incompetent or disabled person and the petitioner, within twenty days after reference to the agency by the court. [1975 1st ex.s. c 95 § 8.]

11.88.040 Notice and hearing, when required—Service—Procedure. Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given personally to the alleged incompetent or disabled person, if over fourteen years of age.

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given by registered or certified mail requesting a return receipt signed by the addressee only, or by personal service in the manner provided for services of summons, to the following:

- (1) The alleged incompetent, disabled person, or minor, if under fourteen years of age;
- (2) A parent, if the alleged incompetent or disabled person is a minor, and the spouse of the alleged incompetent or disabled person if any;
- (3) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged incompetent or disabled person resides. No notice need be given to those persons named in subsections (2) and (3) of this section if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing. If the petition is by a parent asking for his appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition be accompanied by the written consent of a minor of the age of fourteen years or upward, consenting to the appointment of the

guardian or limited guardian asked for, or if the petition be by a nonresident guardian of any minor or incompetent or disabled person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days notice shall be given.

In all guardianship and limited guardianship hearings the alleged incompetent or disabled person shall be present in court at the final hearing on the petition. If the petition for guardianship or limited guardianship states that the alleged incompetent or disabled person is physically unable to be present, the guardian ad litem may request the court to waive the requirement of the presence of the alleged incompetent at the hearing or the court may remove itself to the place of residence of the alleged incompetent or disabled person and conduct the final hearing in the presence of the alleged incompetent or disabled person. [1975 1st ex.s. c 95 § 5; 1969 c 70 § 1; 1965 c 145 § 11.88.040. Prior: 1927 c 170 § 2; 1923 c 142 § 4; 1917 c 156 § 198; RRS § 1568; prior: 1909 c 118 § 2; 1903 c 130 §§ 2, 3.]

Waiver of notice: RCW 11.16.083.

11.88.045 Legal counsel and jury trial—Proof—Medical report. An alleged incompetent or disabled person is entitled to independent legal counsel at his own expense to represent him in the procedure: *Provided*, That if the alleged incompetent or disabled person is unable to pay for such representation or should such payment result in substantial hardship upon such person the county shall be responsible for such costs. The alleged incompetent or disabled person is further entitled upon request to a jury trial on the issues of his alleged incompetency or disability, with the standard of proof to be applied being that of clear, cogent, and convincing evidence.

In all proceedings for appointment of a guardian or limited guardian, the court must be presented with a sworn medical report pertaining to the alleged incompetent or disabled persons' degree of incompetency or disability: *Provided*, That the court may waive the filing of a sworn medical report. [1975 1st ex.s. c 95 § 7.]

11.88.090 Guardian ad litem. Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180, as now or hereafter amended, shall affect or impair the power of any court to appoint a guardian to defend the interests of any incompetent person interested in any suit or matter pending therein, or to commence and prosecute any suit in his behalf.

Upon receipt of a petition for appointment of guardian or limited guardian, the court shall appoint a guardian ad litem, who may be a person recommended by either the local mental health board or mental retardation board (or county social service administrative board where applicable), to represent the interests of the alleged incompetent or disabled person in response to any petition for guardianship or limited guardianship. The appointment of a guardian ad litem shall have

no effect on the legal competency of the alleged incompetent or disabled person and such appointment shall not overcome the presumption of competency or full legal and civil rights of the alleged incompetent or disabled person.

The court appointed guardian ad litem shall have the authority, in the event that the alleged incompetent or disabled person is in need of emergency and life-saving medical services, and is unable to consent to such medical services due to incapacity pending the hearing on the petition to give consent for such emergency and life-saving medical services on behalf of the alleged incompetent or disabled person. [1975 1st ex.s. c 95 § 9; 1965 c 145 § 11.88.090. Prior: 1917 c 156 § 211; RRS § 1581; prior: Code 1881 § 1619; 1873 p 318 § 314; 1860 p 228 § 336.]

Rules of court:

Discipline of attorneys: DRA 4.1.

Settlement of claims of minors: SPR 98.16W.

Adoption from minor parent, guardian ad litem appointed for: RCW 26.32.070.

Award in lieu of homestead, appointment for minor children or incompetents: RCW 11.52.014.

Commercial waterway district improvement proceedings: RCW 91.04.350.

Costs against guardian of infant plaintiff: RCW 4.84.140.

Eminent domain proceedings by cities, guardian ad litem appointed for infants or mentally ill: RCW 8.12.180.

Execution against for costs against infant plaintiff: RCW 4.84.140.

Family allowances in probate of property, appointment of guardian ad litem for minor children or incompetents of deceased: Chapter 11.52 RCW.

Homestead, awarding to survivor, guardian ad litem appointed for minor children or incompetents of deceased: RCW 11.52.020.

Insane persons

appearance in civil action: RCW 4.08.060.

appointment for civil actions: RCW 4.08.060.

Justice of the peace, guardian ad litem if defendant minor, appointment of: RCW 12.04.150.

Liability for costs against infant plaintiffs: RCW 4.84.140.

Minors, for

appearance in civil actions: RCW 4.08.050.

appointment for civil actions: 4.08.050 RCW.

justice court proceedings: RCW 12.04.150.

Registration of land titles, appointment for minors: RCW 65.12.145.

11.88.100 Oath and bond of guardian or limited guardian. Before letters of guardianship are issued, each guardian or limited guardian shall take and subscribe an oath and, unless dispensed with by order of the court as provided in RCW 11.88.105, file a bond, with sureties to be approved by the court, payable to the state, in such sum as the court may fix, taking into account the character of the assets on hand or anticipated and the income to be received and disbursements to be made, and such bond shall be conditioned substantially as follows:

The condition of this obligation is such, that if the above bound A.B., who has been appointed guardian or limited guardian for C.D., shall faithfully discharge the office and trust of such guardian or limited guardian according to law and shall render a fair and just account of his guardianship or limited guardianship to the superior court of the county of _____, from time to time as he shall thereto be required by such court,

and comply with all orders of the court, lawfully made, relative to the goods, chattels, moneys, care, management, and education of such incompetent or disabled person, or his or her property, and render and pay to such incompetent or disabled person all moneys, goods, chattels, title papers, and effects which may come into the hands or possession of such guardian or limited guardian, at such time and in such manner as the court may order or adjudge, then this obligation shall be void, otherwise to be and remain in full force and effect.

The bond shall be for the use of the incompetent or disabled person, and shall not become void upon the first recovery, but may be put in suit from time to time against all or any one of the obligors, in the name and for the use and benefit of any person entitled by the breach thereof, until the whole penalty is recovered thereon. The court may require an additional bond whenever for any reason it appears to the court that an additional bond should be given.

In all guardianships or limited guardianships of the person, and in all guardianship or limited guardianships of the estate, in which the inventory filed with the court shows that the incompetent or disabled person has total accumulated assets of a value of less than fifteen hundred dollars, the court may dispense with the requirement of a bond: *Provided*, That the guardian or limited guardian shall swear to report to the court any changes in the accumulated assets of the incompetent or disabled person increasing their value to over fifteen hundred dollars: *Provided further*, That said guardian or limited guardian shall file a yearly statement showing the monthly income of the incompetent or disabled person if said monthly income is over the sum of two hundred fifty dollars per month for any three consecutive months. [1975 1st ex.s. c 95 § 10; 1965 c 145 § 11.88.100. Prior: 1961 c 155 § 1; 1951 c 242 § 1; 1947 c 145 § 1; 1945 c 41 § 1; 1917 c 156 § 203; Rem. Supp. 1947 § 1573; prior: 1905 c 17 § 1; Code 1881 § 1612; 1860 p 226 § 329.]

Citation of surety on bond: RCW 11.92.056.

Suretyship: Chapter 19.72 RCW.

11.88.105 Reduction in amount of bond. In cases where all or a portion of the estate consisting of cash or securities or both, has been placed in possession of savings and loan associations or banks, trust companies, escrow corporations, or other corporations approved by the court and a receipt is filed by the guardian or limited guardian in court therefor, stating that such corporations hold the same subject to order of court then in such case the court may in its discretion dispense with the giving of a bond or reduce the same by the amount of such deposits of cash or securities, and may order that no further reports by said guardian or limited guardian be required until such time as the guardian or limited guardian desires to withdraw such funds or change the investment thereof. [1975 1st ex.s. c 95 § 11; 1965 c 145 § 11.88.105.]

11.88.107 When bond may be dispensed with. In all cases where a bank or trust company, authorized to act as guardian or limited guardian, is appointed as guardian or limited guardian, or acts as guardian or limited guardian under an appointment as such heretofore made, no bond shall be required. [1975 1st ex.s. c 95 § 12; 1965 c 145 § 11.88.107.]

11.88.110 Law on executors' and administrators' bonds applicable. All the provisions of this title relative to bonds given by executors and administrators shall apply to bonds given by guardians or limited guardians. [1975 1st ex.s. c 95 § 13; 1965 c 145 § 11.88.110. Prior: 1917 c 156 § 204; RRS § 1574; prior: Code 1881 § 1617; 1860 p 228 § 334.]

Bond of personal representative: RCW 11.28.180.

11.88.115 Notice to department of revenue. Duty of guardian to notify department of revenue; personal liability for taxes upon failure to give notice: See RCW 82.32.240.

11.88.120 Procedure on removal or death of guardian or limited guardian—Delivery of estate to successor. The court in all cases shall have power to remove guardians or limited guardians for good and sufficient reasons, which shall be entered of record, and to appoint others in their place or in the place of those who may die, who shall give bond and security for the faithful discharge of their duties as prescribed in RCW 11.88.100 as now or hereafter amended; and when any guardian or limited guardian shall be removed or die, and a successor be appointed, the court shall have power to compel such guardian or limited guardian removed to deliver up to such successor all goods, chattels, moneys, title papers, or other effects belonging to such incompetent or disabled person, which may be in the possession of such guardian or limited guardian so removed, or of the personal representatives of a deceased guardian, or in the possession of any other person or persons, or in the possession of a stand-by guardian or limited guardian and upon failure, to commit the party offending to prison, until he complies with the order of the court. [1975 1st ex.s. c 95 § 14; 1965 c 145 § 11.88.120. Prior: 1917 c 156 § 209; RRS § 1579; prior: Code 1881 § 1616; 1860 p 227 § 333; 1855 p 17 § 11.]

11.88.125 Stand-by guardian or limited guardian. The person appointed by the court as either guardian or limited guardian of the person and/or estate of an incompetent or disabled person, shall file in writing with the court, a designated stand-by limited guardian or guardian to serve as limited guardian or guardian at the death of the court-appointed guardian or limited guardian. Such stand-by guardian or limited guardian shall have all the powers, duties, and obligations of the regularly appointed guardian or limited guardian and in addition shall, within a period of thirty days from the death of the regularly appointed guardian or limited guardian, file with the superior court in which the original guardianship or limited guardianship was filed, a

petition for appointment of a substitute guardian or limited guardian. Upon the court's appointment of a new, substitute guardian or limited guardian, the stand-by guardian shall make an accounting and report to be approved by the court, and upon approval of the court, the stand-by guardian or limited guardian shall be released from all duties and obligations arising from or out of the guardianship or limited guardianship. [1975 1st ex.s. c 95 § 6.]

11.88.130 Transfer of jurisdiction and venue. The court of any county having jurisdiction of any guardianship or limited guardianship proceeding is authorized to transfer jurisdiction and venue of the guardianship or limited guardianship proceeding to the court of any other county of the state upon application of the guardian or limited guardian and such notice to an alleged incompetent or disabled person or other interested party as the court may require. Such transfers of guardianship or limited guardianship proceedings shall be made to the court of a county wherein either the guardian or limited guardian or alleged incompetent or disabled person resides, as the court may deem appropriate, at the time of making application for such transfer. The original order providing for any such transfer shall be retained as a permanent record by the clerk of the court in which such order is entered, and a certified copy thereof together with the original file in such guardianship or limited guardianship proceeding and a certified transcript of all record entries up to and including the order for such change shall be transmitted to the clerk of the court to which such proceeding is transferred. [1975 1st ex.s. c 95 § 15; 1965 c 145 § 11.88.130. Prior: 1955 c 45 § 1.]

11.88.140 Termination of guardianship or limited guardianship. (1) *Termination without court order.* A guardianship or limited guardianship is terminated

(a) Upon the attainment of full and legal age, as defined in RCW 11.92.010 as now or hereafter amended, of any person defined as an incompetent or disabled person pursuant to RCW 11.88.010 as now or hereafter amended solely by reason of youth, RCW 26.28.020 to the contrary notwithstanding.

(b) By an adjudication of competency.

(c) By the death of the incompetent or disabled person.

(2) *Termination on court order.* A guardianship or limited guardianship may be terminated by court order after such notice as the court may require

(a) If the guardianship or limited guardianship is of the estate and the estate is exhausted;

(b) If the guardianship or limited guardianship is no longer necessary for any other reason.

(3) *Effect of termination.* When a guardianship or limited guardianship terminates otherwise than by the death of the incompetent or disabled person, the powers of the guardian or limited guardian cease, except that a guardian or limited guardian of the estate may make disbursements for claims that are or may be allowed by the court, for liabilities already properly incurred for the estate or for the incompetent or disabled person,

and for expenses of administration. When a guardianship or limited guardianship terminates by death of the incompetent or disabled person, the guardian or limited guardian of the estate may proceed under RCW 11.88-.150 as now or hereafter amended, but the rights of all creditors against the incompetent's or disabled person's estate shall be determined by the law of decedents' estates. [1975 1st ex.s. c 95 § 16; 1965 c 145 § 11.88.140.]

Procedure on removal or death of guardian or limited guardian:
RCW 11.88.120.

Settlement of estate upon termination other than by death intestate:
RCW 11.92.053.

11.88.150 Administration of deceased incompetent's or disabled person's estate. Upon the death of an incompetent or disabled person intestate the guardian or limited guardian of his estate has power under the letters issued to him and subject to the direction of the court to administer the estate as the estate of the deceased incompetent or disabled person without further letters unless within forty days after death of the incompetent or disabled person a petition is filed for letters of administration or for letters testamentary and the petition is granted. If the guardian or limited guardian elects to administer the estate under his letters of guardianship or limited guardianship, he shall petition the court for an order transferring the guardianship or limited guardianship proceeding to a probate proceeding, and upon court approval, the clerk of the court shall re-index the cause as a decedent's estate, using the same file number which is assigned to the guardianship or limited guardianship proceeding. The guardian or limited guardian shall then be authorized to continue administration of the estate without the necessity for any further petition or hearing. Notice to creditors and other persons interested in the estate shall be published and may be combined with the notice of the guardian's or limited guardian's final account. This notice shall be published in the manner provided in RCW 11.40.010, once each week for three successive weeks, with proof by affidavit of the publication of such notice to be filed with the court. All claims which are not filed within four months after first publication shall be barred against the estate. Upon the hearing, the account may be allowed and the balance distributed to the persons entitled thereto, after the payment of such claims as may be allowed. Liability on the guardian's or limited guardian's bond shall continue until exonerated on settlement of his account, and may apply to the complete administration of the estate of the deceased incompetent or disabled person with the consent of the surety. If letters of administration or letters testamentary are granted upon petition filed within forty days after the death of the incompetent or disabled person, the personal representative shall supersede the guardian or limited guardian in the administration of the estate and the estate shall be administered as a decedent's estate as provided in this title, including the publication of notice to creditors and other interested persons and the barring of creditors claims. [1975 1st ex.s. c 95 § 17; 1965 c 145 § 11.88.150.]

Settlement of estate upon termination other than by death intestate:
RCW 11.92.053.

Chapter 11.92 GUARDIANSHIP—POWERS AND DUTIES OF GUARDIAN AND LIMITED GUARDIAN

Sections	
11.92.010	Guardians or limited guardians under court control— Legal age.
11.92.035	Claims.
11.92.040	Duties of guardian and limited guardian in general.
11.92.050	Intermediate accounts—Hearing—Order.
11.92.056	Citation of surety on bond.
11.92.060	Guardian to represent incompetent—Compromise of claims—Service of process on behalf of disabled persons.
11.92.090	Sale, exchange, lease, or mortgage of property.
11.92.100	Petition—Contents.
11.92.110	Law governing sales of real estate.
11.92.115	Return and confirmation of sale.
11.92.120	Confirmation conclusive.
11.92.130	Performance of contracts.
11.92.150	Request for special notice of proceedings.
11.92.160	Citation for failure to file account or report.
11.92.170	Removal of property of nonresident incompetent or dis- abled person.
11.92.180	Compensation and expenses of guardian or limited guardian—Attorney's fee.
11.92.185	Concealed or embezzled property—Proceedings for discovery.

11.92.010 Guardians or limited guardians under court control—Legal age. Guardians or limited guardians herein provided for shall at all times be under the general direction and control of the court making the appointment. For the purposes of chapters 11.88 and 11.92 RCW, all persons shall be of full and legal age when they shall be eighteen years old. [1975 1st ex.s. c 95 § 18; 1971 c 28 § 5; 1965 c 145 § 11.92.010. Prior: 1923 c 72 § 1; 1917 c 156 § 202; RRS § 1572. Formerly RCW 11.92.010 and 11.92.020.]

Age of majority: RCW 26.28.010.

Married female of full age: RCW 26.28.020.

Termination of guardianship or limited guardianship upon attainment of legal age: RCW 11.88.140.

Transfer of jurisdiction and venue: RCW 11.88.130.

11.92.035 Claims. (1) *Duty of guardian to pay.* A guardian of the estate is under a duty to pay from the estate all just claims against the estate of his incompetent, whether they constitute liabilities of the incompetent which arose prior to the guardianship or liabilities properly incurred by the guardian for the benefit of the incompetent or his estate and whether arising in contract or in tort or otherwise, upon allowance of the claim by the court or upon approval of the court in a settlement of the guardian's accounts. The duty of the guardian to pay from the estate shall not preclude his personal liability for his own contracts and acts made and performed on behalf of the estate as it exists according to the common law. If it appears that the estate is likely to be exhausted before all existing claims are paid, preference shall be given to prior claims for the care, maintenance and education of the incompetent and of his dependents and existing claims for expenses of administration over other claims.

(2) *Claims may be presented.* Any person having a claim against the estate of an incompetent, or against the guardian of his estate as such, may file a written claim with the court for determination at any time before it is barred by the statute of limitations, and, upon proof thereof, procure an order for its allowance and payment from the estate. Any action against the guardian of the estate as such shall be deemed a claim duly filed.

(3) *Duty of limited guardian to pay.* Claims against a limited guardianship estate shall be paid by the limited guardian only to the extent specified in the order appointing the limited guardian. [1975 1st ex.s. c 95 § 19; 1965 c 145 § 11.92.035.]

Actions against guardian: RCW 11.92.060.

Claims against estate of deceased incompetent or disabled person: RCW 11.88.150.

Disbursement for claims on termination of guardianship or limited guardianship: RCW 11.88.140.

11.92.040 Duties of guardian and limited guardian in general. It shall be the duty of the guardian and limited guardian

(1) To make out and file within three months after his appointment a verified inventory of all the property of the incompetent or disabled person which shall come to his possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item.

(2) To file annually, within thirty days after the anniversary date of his appointment, and also within thirty days after termination of his appointment, a written verified account of his administration: *Provided*, That the court in its discretion may allow such reports at intervals of up to thirty-six months, with instruction to the guardian or limited guardian that any substantial increase in income or assets or substantial change in the incompetent's or disabled person's condition shall be reported within thirty days of such substantial increase or change.

(3) If he is a guardian or limited guardian of the person, to care for and maintain the incompetent, and if the incompetent or disabled person is a minor, to see that the incompetent or disabled person is properly trained and educated and that the incompetent or disabled person has the opportunity to learn a trade, occupation or profession. The guardian or limited guardian of the person may be required to report the condition of his incompetent or disabled person to the court, at regular intervals or otherwise as the court may direct.

(4) If he is a guardian or limited guardian of the estate, to protect and preserve it, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required of him by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the incompetent or disabled person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 30.99.070

for periods not exceeding one year from the date of the order.

(5) To invest and reinvest the property of the incompetent or disabled person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 30.24 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian during a period of not exceeding one year following the date of the order to invest and reinvest as provided in chapter 30.24 RCW without further order of the court.

(b) If it is for the best interests of the incompetent or disabled person that a specific property be used by the incompetent or disabled person rather than sold and the proceeds invested, the court may so order.

(6) To apply to the court for an order authorizing any disbursement on behalf of the incompetent or disabled person; provided, however, that the guardian or limited guardian of the estate, or the person, department, bureau, agency or charitable organization having the care and custody of an incompetent or disabled person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency or charitable organization having the care and custody of an incompetent or disabled person, or if the guardian or limited guardian of the estate has the care and custody of the incompetent or disabled person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance and education of the incompetent or disabled person and of his dependents. In proper cases, the court may order payment of amounts directly to the incompetent or disabled person for his maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under such order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof. [1975 1st ex.s. c 95 § 20; 1965 c 145 § 11.92.040. Prior: 1957 c 64 § 1; 1955 c 205 § 15; 1941 c 83 § 1; 1917 c 156 § 205; Rem. Supp. 1941 § 1575; prior: 1895 c 42 § 1; Code 1881 § 1614.]

Compulsory school attendance law, duty to comply with: RCW 28A.27.010.

Disabled person, defined: RCW 11.88.010.

Part time schools duty of guardian to cover attendance: RCW 28A.28.100.

11.92.050 Intermediate accounts—Hearing—Order. Upon the filing of any intermediate guardianship or limited guardianship account required by statute, or of any intermediate account required by court rule or

order, the guardian or limited guardian may petition the court for an order settling his account with regard to any and all receipts, expenditures and investments made and acts done by the guardian or limited guardian to the date of said interim report. Upon such petition being filed, the court may in its discretion, where the size or condition of the estate warrants it, set a date for the hearing of such petition and require the service of the petition and a notice of such hearing as provided in RCW 11.88.040 as now or hereafter amended; and, in the event such a hearing be ordered, the court shall also appoint a guardian ad litem, whose duty it shall be to investigate the report of the guardian or limited guardian of the estate and to advise the court thereon at said hearing, in writing. At such hearing on said report of the guardian or limited guardian, if the court be satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian or limited guardian has in all respects discharged his trust with relation to such receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account, and such order shall be final and binding upon the incompetent or disabled person, subject only to the right of appeal as upon a final order; provided that at the time of final account of said guardian or limited guardian or within one year after said incompetent or disabled person attains his majority any such interim account may be challenged by said incompetent or disabled person on the ground of fraud. [1975 1st ex.s. c 95 § 21; 1965 c 145 § 11.92.050. Prior: 1943 c 29 § 1; Rem. Supp. 1943 § 1575-1.]

11.92.056 Citation of surety on bond. If, at any hearing upon a petition to settle the account of any guardian or limited guardian, it shall appear to the court that said guardian or limited guardian has not fully accounted or that said account should not be settled, the court may continue said hearing to a day certain and may cite the surety or sureties upon the bond of said guardian or limited guardian to appear upon the date fixed in said citation and show cause why the account should not be disapproved and judgment entered for any deficiency against said guardian or limited guardian and the surety or sureties upon his or her bond. Said citation shall be personally served upon said surety or sureties in the manner provided by law for the service of summons in civil actions and shall be served not less than twenty days previous to said hearing. At said hearing any interested party, including the surety so cited, shall have the right to introduce any evidence which shall be material to the matter before the court. If, at said hearing, the final account of said guardian or limited guardian shall not be approved and the court shall find that said guardian or limited guardian is indebted to the incompetent or disabled person in any amount, said court may thereupon enter final judgment against said guardian or limited guardian and the surety or sureties upon his or her bond, which judgment shall be enforceable in the same manner and to the same extent as judgments in ordinary civil actions. [1975 1st ex.s. c 95 § 22; 1965 c 145 § 11.92.056.]

11.92.060 Guardian to represent incompetent—Compromise of claims—Service of process on behalf of disabled persons. (1) *Guardian may sue and be sued.* When there is a guardian of the estate, all actions between the incompetent or the guardian and third persons in which it is sought to charge or benefit the estate of the incompetent shall be prosecuted by or against the guardian of the estate as such. He shall represent the interests of the incompetent in the action and all process shall be served on him.

(2) *Joinder, amendment and substitution.* When the guardian of the estate is under personal liability for his own contracts and acts made and performed on behalf of the estate he may be sued both as guardian and in his personal capacity in the same action. Misnomer or the bringing of the action by or against the incompetent shall not be grounds for dismissal of the action and leave to amend or substitute shall be freely granted. If an action was commenced by or against the incompetent before the appointment of a guardian of his estate, such guardian when appointed may be substituted as a party for the incompetent. If the appointment of the guardian of the estate is terminated, his successor may be substituted; if the incompetent dies, his personal representative may be substituted; if the incompetent becomes competent, he may be substituted.

(3) *Garnishment, attachment and execution.* When there is a guardian of the estate, the property and rights of action of the incompetent shall not be subject to garnishment or attachment, except for the foreclosure of a mortgage or other lien, and execution shall not issue to obtain satisfaction of any judgment against the incompetent or the guardian of his estate as such.

(4) *Compromise by guardian.* Whenever it is proposed to compromise or settle any claim by or against the incompetent or the guardian as such, whether arising as a result of personal injury or otherwise, and whether arising before or after appointment of a guardian, the court on petition of the guardian of the estate, if satisfied that such compromise or settlement will be for the best interests of the incompetent, may enter an order authorizing the settlement or compromise be made.

(5) *Limited guardian.* Limited guardians may serve and be served with process or actions on behalf of the disabled person, but only to the extent provided for in the court order appointing a limited guardian. [1975 1st ex.s. c 95 § 23; 1965 c 145 § 11.92.060. Prior: 1917 c 156 § 206; RRS § 1576; prior: 1903 c 100 § 1; Code 1881 § 1611; 1860 p 226 § 328.]

Rules of court: SPR 98.08W, 98.10W, 98.16W.

Action against guardian deemed claim: RCW 11.92.035.

11.92.090 Sale, exchange, lease, or mortgage of property. Whenever it shall appear to the satisfaction of a court by the petition of any guardian or limited guardian, that it is necessary or proper to sell, exchange, lease, mortgage, or grant an easement, license or similar interest in any of the real or personal property of the estate of such incompetent or disabled person for the purpose of paying debts or for the care, support and education of such incompetent or disabled person, or to

redeem any property of such incompetent's or disabled person's estate covered by mortgage or other lien, or for the purpose of making any investments, or for any other purpose which to the court may seem right and proper, the court may make an order directing such sale, exchange, lease, mortgage, or grant of easement, license or similar interest of such part or parts of the real or personal property as shall to the court seem proper. [1975 1st ex.s. c 95 § 24; 1965 c 145 § 11.92.090. Prior: 1917 c 156 § 212; RRS § 1582; prior: Code 1881 § 1620; 1855 p 17 § 14.]

11.92.100 Petition—Contents. Such application shall be by petition, verified by the oath of the guardian or limited guardian, and shall substantially set forth:

(1) The value and character of all personal estate belonging to such incompetent or disabled person that has come to the knowledge or possession of such guardian or limited guardian.

(2) The disposition of such personal estate.

(3) The amount and condition of the incompetent's or disabled person's personal estate, if any, dependent upon the settlement of any estate, or the execution of any trust.

(4) The annual income of the real estate of the incompetent or disabled person.

(5) The amount of rent received and the application thereof.

(6) The proposed manner of reinvesting the proceeds of the sale, if asked for that purpose.

(7) Each item of indebtedness, or the amount and character of the lien, if the sale is prayed for the liquidation thereof.

(8) The age of the incompetent or disabled person, where and with whom residing.

(9) All other facts connected with the estate and condition of the incompetent or disabled person necessary to enable the court to fully understand the same. If there is no personal estate belonging to such incompetent or disabled person in possession or expectancy, and none has come into the hands of such guardian or limited guardian, and no rents have been received, the fact shall be stated in the application. [1975 1st ex.s. c 95 § 25; 1965 c 145 § 11.92.100. Prior: 1917 c 156 § 213; RRS § 1583; prior: Code 1881 § 1621; 1860 p 228 § 338; 1855 p 17 § 15.]

11.92.110 Law governing sales of real estate. The order directing the sale of any of the real property of the estate of such incompetent or disabled person shall specify the particular property affected and the method, whether by public or private sale or by negotiation, and terms thereof, and with regard to the procedure and notices to be employed in conducting such sale, the provisions of RCW 11.56.060, 11.56.070, 11.56.080, and 11.56.110 shall be followed unless the court otherwise directs. [1975 1st ex.s. c 95 § 26; 1965 c 145 § 11.92.110. Prior: 1917 c 156 § 214; RRS § 1524; prior: Code 1881 § 1623; 1860 p 229 § 340.]

11.92.115 Return and confirmation of sale. The guardian or limited guardian making any sale of real estate, either at public or private sale or sale by negotiation, shall within ten days after making such sale file with the clerk of the court his return of such sale, the same being duly verified. At any time after the expiration of ten days from the filing of such return, the court may, without notice, approve and confirm such sale and direct proper instruments of transfer to be executed and delivered. Upon the confirmation of any such sale, the court shall direct the guardian or limited guardian to make, execute and deliver instruments conveying the title to the person to whom such property may be sold and such instruments of conveyance shall be deemed to convey all the estate, rights and interest of the incompetent or disabled person and of his estate. In the case of a sale by negotiation the guardians or limited guardians shall publish a notice in one issue of a legal newspaper published in the county in which the estate is being administered; the substance of such notice shall include the legal description of the property sold, the selling price and the date after which the sale may be confirmed: *Provided*, That such confirmation date shall be at least ten days after such notice is published. [1975 1st ex.s. c 95 § 27; 1965 c 145 § 11.92.115.]

11.92.120 Confirmation conclusive. No sale by any guardian or limited guardian of real or personal property shall be void or be set aside or be attacked because of any irregularities whatsoever, and none of the steps leading up to such sale or the confirmation thereof shall be jurisdictional, and the confirmation by the court of any such sale shall be conclusive as to the regularity and legality of such sale or sales, and the passing of title after confirmation by the court shall vest an absolute title in the purchaser, and such instrument of transfer may not be attacked for any purpose or any reason, except for fraud. [1975 1st ex.s. c 95 § 28; 1965 c 145 § 11.92.120. Prior: 1917 c 156 § 215; RRS § 1585; prior: Code 1881 § 1625; 1860 p 229 § 343.]

11.92.130 Performance of contracts. If any person who is bound by contract in writing to perform shall become incompetent or become a disabled person before making the performance, the court having jurisdiction of the guardianship or limited guardianship of such property may, upon application of the guardian or limited guardian of such incompetent or disabled person, or upon application of the person claiming to be entitled to the performance, make an order authorizing and directing the guardian or limited guardian to perform such contract. The application and the proceedings, shall, as nearly as may be, be the same as provided in chapter 11.60 RCW. [1975 1st ex.s. c 95 § 29; 1965 c 145 § 11.92.130. Prior: 1923 c 142 § 5; RRS § 1585a.]

11.92.150 Request for special notice of proceedings. At any time after the issuance of letters of guardianship in the estate of any incompetent or disabled person, any person interested in said estate, or in such incompetent or disabled person, or any relative of such incompetent or disabled person, or any authorized representative of

any agency, bureau, or department of the United States government from or through which any compensation, insurance, pension or other benefit is being paid, or is payable, may serve upon such guardian or limited guardian, or upon the attorney for such guardian or limited guardian, and file with the clerk of the court wherein the administration of such guardianship or limited guardianship estate is pending, a written request stating that special written notice is desired of any or all of the following matters, steps or proceedings in the administration of such estate:

(1) Filing of petition for sales, exchanges, leases, mortgages, or grants of easements, licenses or similar interests in any property of the estate.

(2) Filing of all intermediate or final accountings or accountings of any nature whatsoever.

(3) Petitions by the guardian or limited guardian for family allowances or allowances for the incompetent or disabled person or any other allowance of every nature from the funds of the estate.

(4) Petitions for the investment of the funds of the estate.

(5) Petition to terminate guardianship or limited guardianship or petition for adjudication of competency.

Such request for special written notice shall designate the name, address and post office address of the person upon whom such notice is to be served and no service shall be required under this section and RCW 11.92.160 as now or hereafter amended other than in accordance with such designation unless and until a new designation shall have been made.

When any account, petition, or proceeding is filed in such estate of which special written notice is requested as herein provided, the court shall fix a time for hearing thereon which shall allow at least ten days for service of such notice before such hearing; and notice of such hearing shall be served upon the person designated in such written request at least ten days before the date fixed for such hearing. The service may be made by leaving a copy with the person designated, or his authorized representative, or by mailing through the United States mail, with postage prepaid to the person and place designated. [1975 1st ex.s. c 95 § 30; 1969 c 18 § 1; 1965 c 145 § 11.92.150. Prior: 1925 ex.s. c 104 § 1; RRS § 1586-1.]

11.92.160 Citation for failure to file account or report. Whenever any request for special written notice is served as provided in this section and RCW 11.92.150 as now or hereafter amended, the person making such request may, upon failure of any guardian or limited guardian for any incompetent or disabled person, to file any account or report required by law, petition the court administering such estate for a citation requiring such guardian or limited guardian to file such report or account, or to show cause for failure to do so, and thereupon the court shall issue such citation and hold a hearing thereon and enter such order as is required by the law and the facts. [1975 1st ex.s. c 95 § 31; 1965 c 145 § 11.92.160. Prior: 1925 ex.s. c 104 § 2; RRS § 1586-2.]

Attorney's fee to contestant of erroneous account or report: RCW 11.76.070.

11.92.170 Removal of property of nonresident incompetent or disabled person. Whenever it is made to appear that it would be in the best interests of the incompetent or disabled person, the court may order the transfer of property in this state to a guardian or limited guardian of the estate of the incompetent or disabled person appointed in another jurisdiction. [1975 1st ex.s. c 95 § 32; 1965 c 145 § 11.92.170. Prior: 1917 c 156 § 217; RRS § 1587; prior: Code 1881 § 1628; 1873 p 320 § 323.]

11.92.180 Compensation and expenses of guardian or limited guardian—Attorney's fee. A guardian or limited guardian shall be allowed such compensation for his services as guardian or limited guardian as the court shall deem just and reasonable. Additional compensation may be allowed for his necessary services as attorney and for other necessary services not required of a guardian or limited guardian. He may also be allowed compensation for necessary expenses in the administration of his trust, including reasonable attorney's fees if the employment of an attorney for the particular purpose is necessary. In all cases, compensation of the guardian or limited guardian and his expenses including attorney's fees shall be fixed by the court and may be allowed at any annual or final accounting; but at any time during the administration of the estate, the guardian or limited guardian or his attorney may apply to the court for an allowance upon the compensation or necessary expenses of the guardian or limited guardian and for attorney's fees for services already performed. If the court finds that the guardian or limited guardian has failed to discharge his duties as such in any respect, it may deny him any compensation whatsoever or may reduce the compensation which would otherwise be allowed. [1975 1st ex.s. c 95 § 33; 1965 c 145 § 11.92.180. Prior: 1917 c 156 § 216; RRS § 1586; prior: Code 1881 § 1627; 1855 p 19 § 25.]

Rules of court: SPR 98.12W.

11.92.185 Concealed or embezzled property—Proceedings for discovery. The court shall have authority to bring before it, in the manner prescribed by RCW 11.48.070, any person or persons suspected of having in his possession or having concealed, embezzled, conveyed or disposed of any of the property of the estate of incompetents or disabled persons subject to administration under this title. [1975 1st ex.s. c 95 § 34; 1965 c 145 § 11.92.185.]

Chapter 11.94 POWER OF ATTORNEY

Sections

11.94.020 Effect of death, disability or incompetence of principal—Acts without knowledge.

11.94.020 Effect of death, disability or incompetence of principal—Acts without knowledge. (1) The death, disability, or incompetence of any principal who has

executed a power of attorney in writing other than a power as described by *section 43 of this 1974 amendatory act, does not revoke or terminate the agency as to the attorney in fact, agent or other person who, without actual knowledge of the death, disability, or incompetence of the principal, acts in good faith under the power of attorney or agency. Any action so taken, unless otherwise invalid or unenforceable, binds the principal and his heirs, devisees, and personal representatives.

(2) An affidavit, executed by the attorney in fact or agent stating that he did not have, at the time of doing an act pursuant to the power of attorney, actual knowledge of the revocation or termination of the power of attorney by death, disability, or incompetence, is, in the absence of a showing of fraud or bad faith, conclusive proof of the nonrevocation or nontermination of the power at that time. If the exercise of the power requires execution and delivery of any instrument which is recordable, the affidavit when authenticated for record is likewise recordable.

(3) This section shall not be construed to alter or affect any provision for revocation or termination contained in the power of attorney. [1974 ex.s. c 117 § 53.]

***Reviser's note:** The reference to section 43 appears to be erroneous. What was apparently intended was section 52, codified as RCW 11.94.010.

Application, construction—Severability—Effective date—1974 ex.s. c 117: See RCW 11.02.080 and notes following.

**Title 12
JUSTICE COURTS—CIVIL
PROCEDURE**

Chapters

- 12.12 Trial.
- 12.40 Small claims.

**Chapter 12.12
TRIAL**

Sections

- 12.12.060 Summons for jurors.

12.12.060 Summons for jurors. The justice shall thereupon issue or cause to be issued a summons for the jury, which summons shall be served personally or by certified mail upon the persons named. [1975 1st ex.s. c 119 § 1; 1888 p 119 § 4; Code 1881 § 1773; 1854 p 236 § 73; RRS § 1852.]

**Chapter 12.40
SMALL CLAIMS**

Sections

- 12.40.110 Procedure on nonpayment.

12.40.110 Procedure on nonpayment. The judgment of said court shall be conclusive. If the losing party fails to pay the judgment according to the terms and conditions thereof within twenty days, and the prevailing

party so notifies the court, the justice before whom such hearing was had shall certify such judgment in substantially the following form:

Washington.
In the Justice's Court of _____ County, before
_____ Justice of the Peace for _____ Pre-
cinct.

Plaintiff,
vs.

Defendant.

In the Small Claims Department.

This is to certify that in a certain action before me, the undersigned, had on this the _____ day of _____ 19__, wherein _____ was plaintiff and _____ defendant, jurisdiction of said defendant having been had by personal service (or otherwise) as provided by law, I then and there entered judgment against said defendant in the sum of _____ Dollars; which judgment has not been paid.

Witness my hand this _____ day of _____, 19____

Justice of the Peace sitting
in the Small Claims Department.

The justice of the peace of said justice's court shall forthwith enter such judgment transcript on the judgment docket of such justice's court; and thereafter garnishment, execution and other process on execution provided by law may issue thereon, as obtains in other cases of judgments of justice's courts, and transcripts of such judgments may be filed and entered in judgment lien dockets in superior courts with like effect as in other cases. [1975 1st ex.s. c 40 § 1; 1973 c 128 § 2; 1919 c 187 § 11; RRS § 1777-11.]

**Title 13
JUVENILE COURTS AND JUVENILE
DELINQUENTS**

Chapters

- 13.04 Juvenile courts.
- 13.20 Management of detention facilities—Class AA counties.

**Chapter 13.04
JUVENILE COURTS**

Sections

- 13.04.260 Commitment of delinquent beyond age twenty-one prohibited—Jurisdiction of juvenile court.

13.04.260 Commitment of delinquent beyond age twenty-one prohibited—Jurisdiction of juvenile court. In no case shall a delinquent juvenile be committed by the juvenile court to the department of social and health services for placement in a juvenile correctional institution beyond the child's twenty-first birthday. A delinquent juvenile shall be under the jurisdiction of the

juvenile court or the authority of the department of social and health services beyond the child's eighteenth birthday only if the juvenile court has, prior to the juvenile's eighteenth birthday, found the juvenile to be delinquent and has extended the jurisdiction beyond the child's eighteenth birthday by written order setting forth its reasons therefor.

In no event shall the juvenile court have authority to extend jurisdiction over any delinquent juvenile beyond the juvenile's twenty-first birthday. [1975 1st ex.s. c 170 § 1.]

Chapter 13.20

MANAGEMENT OF DETENTION FACILITIES— CLASS AA COUNTIES

Sections

13.20.060 Transfer of administration of juvenile court services to county executive—Authorized—Advisory board—Procedure.

13.20.060 Transfer of administration of juvenile court services to county executive—Authorized—Advisory board—Procedure. In addition, and alternatively, to the authority granted by RCW 13.20.010, the judges of the superior court of any class AA county are hereby authorized, by a majority vote, subject to approval by ordinance of the legislative authority of the county to transfer to the county executive the responsibility for, and administration of all or part of juvenile court services, including detention, intake and probation. The superior court and county executive of such county are further authorized to establish a five-member juvenile court advisory board to advise the county in its administration of such services, facilities and programs. If the advisory board is established, two members of the advisory board shall be appointed by the superior court, two members shall be appointed by the county executive, and one member shall be selected by the vote of the other four members. The county is authorized to contract or otherwise make arrangements with other public or private agencies to provide all or a part of such services, facilities and programs. Subsequent to any transfer to the county of responsibility and administration of such services, facilities and programs pursuant to the foregoing authority, the judges of such superior court, by majority vote subject to the approval by ordinance of the legislative authority of the county, may retransfer the same to the superior court. [1975 1st ex.s. c 124 § 1.]

Title 14 AERONAUTICS

Chapters

14.04 Aeronautics commission.

Chapter 14.04 AERONAUTICS COMMISSION

Sections

14.04.020 Definitions.

14.04.090 Aid to municipalities, Indian tribes—Federal aid.

14.04.020 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Aeronautics" means the science and art of flight and including but not limited to transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports or air navigation facilities; and instruction in flying or ground subjects pertaining thereto.

(2) "Aircraft" means any contrivance now known, or hereafter invented, used or designed for navigation of or flight in the air.

(3) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or right-of-way, together with all airport buildings and facilities located thereon.

(4) "Commission" means the state aeronautics commission.

(5) "Director" means the director of aeronautics of this state.

(6) "State" or "this state" means the state of Washington.

(7) "Air navigation facility" means any facility, other than one owned or operated by the United States, used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(8) "Operation of aircraft" or "operate aircraft" means the use, navigation or piloting of aircraft in the airspace over this state or upon any airport within this state.

(9) "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew in the navigation of aircraft while under way, and any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances, and any individual who serves in the capacity of aircraft dispatcher or air-traffic control tower operator; but does not include any individual employed outside the United States, or any individual employed by a manufacturer of aircraft, aircraft engines, propellers, or appliances to

perform duties as inspector or mechanic in connection therewith, or any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him.

(10) "Aeronautics instructor" means any individual who for hire or reward engages in giving instruction or offering to give instruction in flying or ground subjects pertaining to aeronautics, but excludes any instructor in a public school, university or institution of higher learning duly accredited and approved for carrying on collegiate work, who instructs in flying or ground subjects pertaining to aeronautics, while in the performance of his duties at such school, university or institution.

(11) "Air school" means any person who advertises, represents or holds out as giving or offering to give instruction in flying or ground subjects pertaining to aeronautics whether for or without hire or reward; but excludes any public school, university or institution of higher learning duly accredited and approved for carrying on collegiate work.

(12) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

(13) "Municipal" means pertaining to a municipality, and "municipality" shall mean any county, city, town, authority, district or other political subdivision or public corporation of this state.

(14) "Airport hazard" means any structure, object of natural growth, or use of land, which obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or is otherwise hazardous to such landing or taking off.

(15) "State airway" means a route in the navigable airspace over and above the lands or waters of this state, designated by the commission as a route suitable for air navigation. [1947 c 165 § 1; Rem. Supp. 1947 § 10964-81.]

14.04.090 Aid to municipalities, Indian tribes—
Federal aid. The commission may make available its engineering and other technical services, with or without charge, to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance or operation of airports or air navigation facilities.

The commission may render financial assistance by grant or loan or both to any municipality or municipalities acting jointly in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by such municipality or municipalities, or to any Indian tribe recognized as such by the federal government or such tribes acting jointly in the planning, acquisition, construction, improvement, maintenance or operation of an airport, owned or controlled, or to be owned or controlled by such tribe or tribes and to be held available for the general use of the public, out of appropriations made by the legislature for such purposes. Such financial assistance may be furnished in connection with federal or other financial aid for the

same purposes: *Provided*, That no grant or loan or both shall be in excess of one hundred thousand dollars for any one project: *Provided further*, That no grant or loan or both shall be granted unless the municipality or municipalities acting jointly, or the tribe or tribes acting jointly shall from their own funds match any funds made available by the commission upon such ratio as the commission may prescribe.

The commission is authorized to act as agent of any municipality or municipalities acting jointly or any tribe or tribes acting jointly, upon the request of such municipality or municipalities, or such tribe or tribes in accepting, receiving, receipting for and disbursing federal moneys, and other moneys public or private, made available to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance or operation of an airport or air navigation facility; and if requested by such municipality or municipalities, or tribe or tribes, may act as its or their agent in contracting for and supervising such planning, acquisition, construction, improvement, maintenance, or operation; and all municipalities and tribes are authorized to designate the commission as their agent for the foregoing purposes. The commission, as principal on behalf of the state, and any municipality on its own behalf, may enter into any contracts, with each other or with the United States or with any person, which may be required in connection with a grant or loan of federal moneys for airport or air navigation facility purposes. All federal moneys accepted under this section shall be accepted and transferred or expended by the commission upon such terms and conditions as are prescribed by the United States. All moneys received by the commission pursuant to this section shall be deposited in the state treasury, and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purposes for which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available: *Provided*, That any landing fee or charge imposed by any Indian tribe or tribes for the privilege of use of an airport facility planned, acquired, constructed, improved, maintained, or operated with financial assistance from the commission pursuant to this section must apply equally to tribal and nontribal members: *Provided further*, That in the event any municipality or municipalities or Indian tribe or tribes, or any distributor of aircraft fuel as defined by RCW 82.42.020 which operates in any airport facility which has received financial assistance pursuant to this section, fails to collect the aircraft fuel excise tax as specified in chapter 82.42 RCW, all funds or value of technical assistance given or paid to such municipality or municipalities or Indian tribe or tribes under the provisions of this section shall revert to the commission, and shall be due and payable to the commission immediately. [1975 1st ex.s. c 161 § 1; 1947 c 165 § 9; Rem. Supp. 1947 § 10964-89.]

Distributor of aircraft fuel defined: RCW 82.42.010(7).

Title 15 AGRICULTURE AND MARKETING

Chapters

- 15.04 General provisions.
- 15.13 Horticultural plants and facilities—Inspection and licensing.
- 15.17 Standards of grades and packs.
- 15.24 Apple advertising commission.
- 15.28 Soft tree fruits.
- 15.44 Dairy products commission.
- 15.49 Washington state seed act.
- 15.53 Commercial feed.
- 15.54 Fertilizers, agricultural minerals and limes. (Washington commercial fertilizer act).
- 15.65 Washington state agricultural enabling act of 1961.
- 15.66 Washington agricultural enabling act of 1955.
- 15.76 Agricultural fairs, youth shows, exhibitions.

Chapter 15.04 GENERAL PROVISIONS

Sections

- 15.04.150 Berry harvesting by youthful workers—Legislative finding.
- 15.04.160 Berry harvesting by youthful workers—Authorized—Restrictions.

15.04.150 Berry harvesting by youthful workers—Legislative finding. The legislature finds that the crops of berry growers in the state are imperiled by a recent change in the federal law relating to youthful agricultural workers. Since the berry harvest season is so short that few migrant agricultural workers find the trip to this state to pick berries worth the trouble, the long-established use of younger pickers must be permitted to the extent where such employment will not interfere with interstate commerce and the federal law. Further, the legislature finds that such employment is healthful, a good indoctrination for youth in the work ethic and the role of agriculture in society, and an opportunity youths welcome to earn extra spending money. [1975 1st ex.s. c 238 § 1.]

15.04.160 Berry harvesting by youthful workers—Authorized—Restrictions. (1) An employee engaged to pick berries in this state outside of school hours for the school district where such employee is living while so employed may be less than twelve years of age: *Provided*, That (a) the employee is employed with the consent of his parent or person standing in the place of his parent, (b) the berries are for sale within the state only, and are not to be shipped out of the state in any form; (c) the secretary of agriculture or his designated representative has certified that there are not sufficient workers available in the immediate area to harvest the crop without such youthful employees, and (d) all employees of any employer engaging youthful employees are paid at the same rate for picking berries.

(2) Each basket, package, or other container containing berries or berry products picked by an employee under twelve years of age shall be distinctively marked

so as to insure that the berries do not enter interstate commerce: *Provided however*, That nothing in RCW 15.04.150 and 15.04.160 shall apply to employers who are exempt from the federal fair labor standards act. [1975 1st ex.s. c 238 § 2.]

Chapter 15.13 HORTICULTURAL PLANTS AND FACILITIES— INSPECTION AND LICENSING

Sections

- 15.13.470 Disposition of moneys and assessments.

15.13.470 Disposition of moneys and assessments. All moneys except assessment collected under the provisions of this chapter shall be paid into the nursery inspection fund in the state treasury which is hereby established. Such fund shall be used only in the administration and enforcement of this chapter. All moneys collected under the provisions of chapter 15.13 RCW and remaining in such nursery inspection account in the state general fund on July 1, 1975, shall likewise be used only in the administration and enforcement of this chapter: *Provided*, That all fees collected for fruit tree, fruit tree seedling and fruit tree rootstock assessments as set forth in this chapter shall be deposited in the northwest nursery fund to be used only for the Washington fruit tree certification and nursery improvement programs as set forth in this chapter and chapter 15.14 RCW. [1975 1st ex.s. c 257 § 1; 1971 ex.s. c 33 § 25.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

Chapter 15.17 STANDARDS OF GRADES AND PACKS

Sections

- 15.17.230 Horticulture inspection districts.
- 15.17.240 Collection, deposit and use of fees—Bond of inspectors-at-large—Accounting.

15.17.230 Horticulture inspection districts. For the purpose of this chapter the state shall be divided into not less than four horticulture inspection districts to which the director may assign one or more inspectors-at-large who as a representative of the director shall supervise and administer regulatory and inspection affairs of the districts: *Provided*, That for purposes of efficiency and economy the director may by rule promulgated in accordance with the Administrative Procedure Act establish or adjust district boundaries or abolish any district: *Provided, however*, That there shall be at least four districts in existence at all times. [1975 1st ex.s. c 7 § 1; 1969 ex.s. c 76 § 2; 1963 c 122 § 23.]

15.17.240 Collection, deposit and use of fees—Bond of inspectors-at-large—Accounting. The inspectors-at-large in charge of such inspections shall collect the fees therefor and deposit them in the horticultural district fund in any bank in the district approved for the deposit of state funds. The inspectors-at-large shall expend fees deposited in the horticultural district fund to

assist in defraying the expenses of inspections and they shall make payments from the horticultural district fund to the horticultural inspection trust fund in Olympia as authorized by the director in accordance with RCW 15.04.100. Inspectors-at-large shall furnish bonds to the state in amounts set by the director of the department of general administration, pursuant to RCW 43.19.540, with sureties approved by the director of agriculture, conditioned upon the faithful handling of said funds for the purposes specified; and shall, on or before the tenth day of each month, render to the director of agriculture a detailed account of the receipts and disbursements for the preceding month. [1975 c 40 § 3; 1963 c 122 § 24.]

Chapter 15.24

APPLE ADVERTISING COMMISSION

Sections

15.24.170 Rules and regulations—Filing—Publication.

15.24.170 Rules and regulations—Filing—Publication. Rules, regulations, and orders made by the commission shall be filed with the director and published in a legal newspaper in the cities of Wenatchee and Yakima within five days after being made, and shall become effective pursuant to the provisions of RCW 34.04.040. [1975 1st ex.s. c 7 § 37; 1961 c 11 § 15.24.170. Prior: 1937 c 195 § 18; RRS § 2874-18.]

Chapter 15.28

SOFT TREE FRUITS

Sections

15.28.300 Rules and regulations—Filing—Publication.

15.28.300 Rules and regulations—Filing—Publication. Every rule, regulation, or order promulgated by the commission shall be filed with the director, and shall be published in a legal daily newspaper in each of the three districts. All such rules, regulations, or orders shall become effective pursuant to the provisions of RCW 34.04.040. [1975 1st ex.s. c 7 § 38; 1961 c 11 § 15.28.300. Prior: 1947 c 73 § 31; Rem. Supp. 1947 § 2909-40.]

Chapter 15.44

DAIRY PRODUCTS COMMISSION

Sections

15.44.020 Commission created—Composition.
 15.44.025 Repealed.
 15.44.027 Commission districts and boundaries.
 15.44.030 Member qualifications.
 15.44.032 Terms—Vacancies.
 15.44.038 Quorum—Compensation—Expenses.
 15.44.070 Rules, regulations and orders, publication.
 15.44.085 Assessments on class I or class II milk.
 15.44.087 Class I and class II milk defined.
 15.44.090 Collection of assessments—Lien.

15.44.020 Commission created—Composition. There is hereby created a Washington state dairy products commission to be thus known and designated. The commission shall be composed of not more than

ten members. There shall be one member from each district who shall be a practical producer of dairy products to be elected by such producers, one member shall be a dealer, and one member shall be a producer who also acts as a dealer, and such dealer and producer who acts as a dealer shall be appointed by the director of agriculture, and the director of agriculture shall be an ex officio member without vote. [1975 1st ex.s. c 136 § 1; 1965 ex.s. c 44 § 2; 1961 c 11 § 15.44.020. Prior: 1959 c 163 § 2; prior: (i) 1939 c 219 § 3, part; RRS § 6266-3, part. (ii) 1939 c 219 § 4, part; RRS § 6266-4, part.]

15.44.025 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

15.44.027 Commission districts and boundaries. The commission shall delete, combine, revise, amend, or modify in any manner commission districts and boundaries by regulation as required and in accordance with the intent and provisions of this section. Commission districts established by statute prior to September 8, 1975 shall remain in effect until superseded by such regulations.

The boundaries of the commission districts shall be maintained in a manner that assures each producer a representation in the commission which is reasonably equal with the representation afforded all other producers by their commission members.

The commission shall, when requested in accordance with the provisions of the administrative procedure act, chapter 34.04 RCW as enacted or hereafter amended, or on its own initiative, hold hearings to determine if new boundaries for each commission district should be established in order to afford each producer a reasonably equal representation in the commission, and if the commission so finds it shall change the boundaries of said commission districts to carry out the proper reapportionment of producer representation on the commission: *Provided*, That the requirement of this section for reasonable equal representation of each producer on the commission need not require an equality of representation when the commission districts east of the crest of the Cascade mountains are compared to the commission districts west of the crest of the Cascade mountains: *Provided further*, That the area east of the crest of the Cascade mountains shall comprise not less than two commission districts.

The commission may in carrying out this reapportionment directive reduce the number of districts presently provided by prior law, whenever it is in the best interest of the producers and if such change would maintain reasonable apportionment for each historical production or marketing area: *Provided*, That each elected commission member whose district may be consolidated with another district shall be allowed to serve out his term of office.

If the commission fails to carry out its directive as set forth herein for equal representation of each producer on the commission the director of agriculture may upon request by ten producers institute a hearing to determine if there is reasonably equal representation for each

producer on the commission. If the director of agriculture finds that such reasonably equal representation is lacking, he then shall realign the district boundaries in a manner which will provide proper representation on the commission for each producer. [1975 1st ex.s. c 136 § 7.]

15.44.030 Member qualifications. Each of the producer members of the commission shall:

(1) Be a citizen and resident of this state and the district which he represents; and

(2) Be and for the five years last preceding his election have been actually engaged in producing dairy products within this state. These qualifications must continue during each member's term of office.

The dealer member shall be actively engaged as a dealer in dairy products or employed in a dealer capacity as an officer or employee at management level in a dairy products organization. [1975 1st ex.s. c 136 § 2; 1965 ex.s. c 44 § 4; 1961 c 11 § 15.44.030. Prior: 1959 c 163 § 4; prior: 1939 c 219 § 3, part; RRS § 6266-3, part.]

15.44.032 Terms—Vacancies. The regular term of office of each producer member of the commission shall be three years. Commission members shall be first nominated and elected in 1966 in the manner set forth in RCW 15.44.033 and shall take office as soon as they are qualified. However, expiration of the term of the respective commission members first elected in 1966 shall be as follows:

(1) District I and II on July 1, 1967;

(2) District III and IV on July 1, 1968; and

(3) District V, VI and VII on July 1, 1969.

The respective terms shall end on July 1st of each third year thereafter. Any vacancies that occur on the commission shall be filled by appointment by the other members of the commission, and such appointee shall hold office for the remainder of the term for which he is appointed to fill, so that commission memberships shall be on a uniform staggered basis.

The term of office of the first dealer appointed by the director shall expire July 1, 1977, and the term of office of the first producer who also acts as a dealer appointed by the director shall expire on July 1, 1978. The term of office of each dealer and each producer who also acts as a dealer shall be three years or until such time as a successor is duly appointed. Any vacancy for a dealer or a producer who also acts as a dealer shall be forthwith filled by the director. The director, in making any appointments set forth herein, may consider lists of nominees supplied him by dealers or producers also acting as dealers. [1975 1st ex.s. c 136 § 3; 1965 ex.s. c 44 § 5; 1961 c 11 § 15.44.032. Prior: 1959 c 163 § 5.]

15.44.038 Quorum—Compensation—Expenses. A majority of the commission members shall constitute a quorum for the transaction of all business and the performance of all duties of the commission. No member of the commission shall receive any salary or other compensation. Each member shall receive a sum not to exceed thirty-five dollars a day for each day spent in actual attendance at or traveling to and from meetings

of the commission or when conducting business of the commission as authorized by the commission, together with traveling expenses at the rate allowed by RCW 43.03.050 as now or hereafter amended. [1975 1st ex.s. c 7 § 12; 1961 c 11 § 15.44.038. Prior: 1959 c 163 § 8.]

15.44.070 Rules, regulations and orders, publication. Every rule, regulation, or order made by the commission shall be filed with the director and published in two legal newspapers, one east of the Cascade mountains and one west thereof, within ten days after it is promulgated, and shall become effective pursuant to the provisions of RCW 34.04.040. [1975 1st ex.s. c 7 § 39; 1961 c 11 § 15.44.070. Prior: 1939 c 219 § 18; RRS § 6266-18.]

15.44.085 Assessments on class I or class II milk. There is hereby levied on every hundredweight of class I or class II milk, as defined in RCW 15.44.087, sold by a dealer, including any milk sold by a producer who acts as a dealer, an assessment of:

(1) Five-eighths of one cent per hundredweight. Such assessment shall be in addition to the producer assessment paid by any producer who also acts as a dealer.

(2) Any additional assessment, within the power and duty of the commission to levy, such that the total assessment shall not exceed one cent per hundredweight, as required to effectuate the purpose of this section.

Such assessment may be increased by approval of dealers and producers who also act as dealers, subject to the standards set forth in RCW 15.44.130 for increasing or decreasing assessments. The funds derived from such assessment shall be used for educational programs in institutions of learning and the sum of such funds derived annually from said dealers and producers who act as dealers shall be matched by assessments derived from producers for the purpose of funding said educational purposes in institutions of learning by an amount not less than the moneys collected from dealers and producers who act as dealers. [1975 1st ex.s. c 136 § 5.]

15.44.087 Class I and class II milk defined. For the purpose of RCW 15.44.085, class I and class II milk sold means milk from cows or goats produced by a producer as defined in RCW 15.44.010 and utilized as follows:

(1) Class I milk shall be all skim milk and butterfat:

(a) Sold in the form of fluid milk product subject to the following limitations and exceptions:

(i) Any products fortified with added nonfat milk solids shall be class I in an amount equal only to the weight of an equal volume of like unmodified product of the same butterfat content.

(ii) Fluid milk products in concentrated form shall be class I in an amount equal to the skim milk and butterfat used to produce the quantity of such products sold.

(iii) Products classified as class II pursuant to subsection (2) of this section are excepted.

(b) Packaged fluid milk products in inventory at the end of the month.

(2) Class II milk shall be all skim milk and butterfat:

(a) Used to produce ice cream, ice cream mix, frozen desserts, aerated cream products, plastic cream, soured cream dressing, yogurt, eggnog, cottage cheese, pot cheese, bakers cheese, cream cheese, neufchatel cheese, or starter; or

(b) Any milk or milk product, sterilized and either (i) packaged in hermetically sealed metal or glass containers and used to produce condensed milk and condensed skim milk, or (ii) in fluid milk products disposed of in bulk to commercial food processing establishments or producer milk sold to a commercial food processing establishment. [1975 1st ex.s. c 136 § 6.]

15.44.090 Collection of assessments—Lien. All assessments shall be collected by the first dealer and deducted from the amount due the producer, and all moneys so collected shall be paid to the treasurer of the commission on or before the twentieth day of the succeeding month for the previous month's collections, and deposited by him in banks designated by the commission to the credit of the commission fund. If a dealer fails to remit any moneys so collected, or fails to make deductions for assessments, such sum shall, in addition to penalties provided in this chapter, be a lien on any property owned by him, and shall be reported to the county auditor by the commission, supported by proper and conclusive evidence, and collected in the manner and with the same priority over other creditors as prescribed for the collection of delinquent taxes. [1975 1st ex.s. c 136 § 4; 1961 c 11 § 15.44.090. Prior: 1959 c 163 § 12; prior: 1949 c 185 § 1, part; 1939 c 219 § 9, part; Rem. Supp. 1949 § 6266-9, part.]

**Chapter 15.49
WASHINGTON STATE SEED ACT**

Sections
15.49.470 Moneys, disposition—Fees, fines, penalties and forfeitures of justice courts, remittance.

15.49.470 Moneys, disposition—Fees, fines, penalties and forfeitures of justice courts, remittance. All moneys collected under the provisions of this chapter shall be paid into the seed fund in the state treasury which is hereby established. Such fund shall be used only in the administration and enforcement of this chapter. All moneys collected under the provisions of chapter 15.49 RCW and remaining in such seed fund account on July 1, 1975, shall likewise be used only in the enforcement of this chapter: *Provided*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1975 1st ex.s. c 257 § 2; 1969 ex.s. c 199 § 13; 1969 c 63 § 47.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

**Chapter 15.53
COMMERCIAL FEED**

Sections
15.53.901 Definitions.
15.53.9014 Registration of feeds—Application—Renewal—Fees—May be refused.
15.53.9018 Inspection fees—Reports—Confidentiality, exception.
15.53.9026 Repealed.
15.53.9028 through 15.53.9034 Repealed.
15.53.9036 Procedure for denial, etc., of registration.
15.53.9038 Department's remedies for noncompliance—"Withdrawal from distribution" order—Condemnation—Seizure.
15.53.9044 Disposition of moneys.
15.53.9053 Repealer—Continuation of prior licenses and registrations—1975 1st ex.s. c 257.

15.53.901 Definitions. For the purposes of this chapter:

- (1) "Department" means the department of agriculture of the state of Washington or its duly authorized representative.
- (2) "Person" means a natural person, individual, firm, partnership, corporation, company, society, or association.
- (3) "Distribute" means to import, consign, manufacture, produce, compound, mix, or blend commercial feed, or to offer for sale, sell, barter, or otherwise supply commercial feed in this state.
- (4) "Distributor" means any person who distributes.
- (5) "Sell" or "sale" includes exchange.
- (6) "Commercial feed" means all materials including customer-formula feed which are distributed for use as feed or for mixing in feed, for animals other than man except:
 - (a) Unmixed seed, whole or processed, made directly from the entire seed;
 - (b) Unground hay, straw, stover, silage, cobs, husks, and hulls when not mixed with other materials;
 - (c) Individual chemical compounds when not mixed with other materials; or
 - (d) Bona fide experimental feeds, on which accurate records and experimental programs are maintained.
- (7) "Feed ingredient" means each of the constituent materials making up a commercial feed.
- (8) "Customer-formula feed" means a mixture of commercial feed and/or materials each batch of which mixture is mixed according to the specific instructions of the final purchaser, or contract feeder.
- (9) "Brand" means the term, design, trademark, or other specific designation under which an individual commercial feed is distributed in this state.
- (10) "Label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed, or on the invoice or delivery slip with which a commercial feed is distributed.
- (11) "Ton" means a net weight of two thousand pounds avoirdupois.
- (12) "Percent" or "percentage" means percentage by weight.
- (13) "Official sample" means any sample of feed taken by the department, obtained and analyzed as provided in RCW 15.53.9024.

(14) "Contract feeder" means an independent contractor, or any other person who feeds commercial feed to animals pursuant to an oral or written agreement whereby such commercial feed is supplied, furnished or otherwise provided to such person by any distributor and whereby such person's remuneration is determined all or in part by feed consumption, mortality, profits, or amount or quality of product: *Provided*, That it shall not include a bona fide employee of a manufacturer or distributor of commercial feed.

(15) "Retail" means to distribute to the ultimate consumer. [1975 1st ex.s. c 257 § 3; 1965 ex.s. c 31 § 2. Prior acts on this subject: 1961 c 11 §§ 15.53.010 through 15.53.900; 1953 c 80 §§ 1-35.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.53.9014 Registration of feeds—Application—Renewal—Fees—May be refused. (1) Each commercial feed shall be registered with the department and such registration shall be renewed annually before such commercial feed may be distributed in this state: *Provided*, That customer-formula feeds are exempt from such registration.

(a) Beginning January 1, 1976, each annual brand registration for a commercial feed distributed in packages of ten pounds or more shall be accompanied by a fee of five dollars: *Provided*, That if such commercial feed is also distributed in packages of less than ten pounds they shall be registered under subsection (b) of this section.

(b) Beginning January 1, 1976, each annual brand registration for a commercial feed distributed in packages of less than ten pounds shall be accompanied by an annual registration fee of twenty dollars on each such commercial feed so distributed: *Provided*, That no inspection fee shall be collected on packages of less than ten pounds of the commercial feed so registered.

(2) The application for registration shall be on forms provided by the department.

(3) The department may require that such application be accompanied by a label and/or other printed matter describing the product. All registrations issued on or after January 1, 1975, shall be renewable unless such registration is canceled by the department or it has called for a new registration, or unless canceled by the registrant.

(4) The application shall include the information required by subsections (1)(b) through (1)(e) of RCW 15.53.9016.

(5) A distributor shall not be required to register any brand of commercial feed which is already registered under the provisions of this chapter by any other person.

(6) Changes in the guarantee of either chemical or ingredient composition of a commercial feed registered under the provisions of this chapter may be permitted provided there is satisfactory evidence that such changes would not result in a lowering of the feed value of the product for the purpose for which designed.

(7) The department is empowered to refuse registration of any application not in compliance with the provisions of this chapter and to cancel any registration subsequently found not to be in compliance with any provisions of this chapter: *Provided*, That no registration shall be refused or canceled until the registrant shall have been given opportunity to be heard before the department and to amend his application in order to comply with the requirements of this chapter. [1975 1st ex.s. c 257 § 4; 1965 ex.s. c 31 § 4.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.53.9018 Inspection fees—Reports—Confidentiality, exception. (1) On or after July 1, 1975 each initial distributor of a commercial feed in this state shall pay to the department an inspection fee of six cents per ton on all commercial feed sold by such person during the year.

(2) In computing the tonnage on which the inspection fee must be paid, sales of commercial feed to other feed registrants, sales of commercial feed in packages weighing less than ten pounds, and sales of commercial feed for shipment to points outside this state may be excluded.

(3) When more than one distributor is involved in the distribution of a commercial feed, the last registrant or initial distributor who distributes to a nonregistrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fee, unless the reporting and paying of fees have been made by a prior distributor of the feed.

(4) Each person made responsible by this chapter for the payment of inspection fees for commercial feed sold in this state shall file a report with the department on October 1st, January 1st, April 1st, and July 1st of each year showing the number of tons of such commercial feed sold during the three calendar months immediately preceding the date the report is due. The proper inspection fee shall be remitted with the report. The person required to file the report and pay the fee shall have a thirty-day period of grace immediately following the day the report and payment are due to file the report, and pay the fee: *Provided*, That upon permission of the department, an annual statement under oath may be filed by any person distributing within the state less than fifty tons per quarter during any year, and upon filing such statement such person shall pay the inspection fee at the rate stated in subsection (1) of this section.

(5) Each distributor shall keep such reasonable and practical records as may be necessary or required by the department to indicate accurately the tonnage of commercial feed distributed in this state, and the department shall have the right to examine such records to verify statements of tonnage. Failure to make an accurate statement of tonnage or to pay the inspection fee or comply as provided herein shall constitute a violation of this chapter.

(6) Inspection fees which are due and owing and have not been remitted to the department within thirty days following the due date shall have a collection fee of

twenty-five percent, but not less than five dollars, added to the amount due when payment is finally made. The assessment of this collection fee shall not prevent the department from taking other actions as provided for in this chapter.

(7) The report required by subsection (4) of this section shall not be a public record, and it shall be a misdemeanor for any person to divulge any information given in such report which would reveal the business operation of the person making the report: *Provided*, That nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of a person if any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the director of the department.

(8) Any commercial feed purchased by a consumer or contract feeder outside the jurisdiction of this state and brought into this state for use shall be subject to all the provisions of this chapter, including inspection fees. [1975 1st ex.s. c 257 § 5; 1967 c 240 § 32; 1965 ex.s. c 31 § 6.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

Severability—1967 c 240: See note following RCW 43.23.010.

15.53.9026 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

15.53.9028 through 15.53.9034 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

15.53.9036 Procedure for denial, etc., of registration. All hearings for a denial, suspension, or revocation of any registration provided for in this chapter shall be subject to the provisions of chapter 34.04 RCW (the Administrative Procedure Act) concerning contested cases, as enacted or hereafter amended. [1975 1st ex.s. c 257 § 6; 1965 ex.s. c 31 § 15.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.53.9038 Department's remedies for noncompliance—"Withdrawal from distribution" order—Condemnation—Seizure. (1) When the department has determined that any lot of commercial feed is adulterated or misbranded or is being distributed in violation of this chapter or any regulations hereunder it may issue and enforce a written or printed "withdrawal from distribution" order, warning the distributor not to dispose of the lot of feed in any manner until written permission is given by the department or a court of competent jurisdiction. The department shall release the lot of commercial feed so withdrawn when said provisions and regulations have been complied with. If compliance is not obtained within thirty days, the department may begin proceedings for condemnation.

(2) Any lot of commercial feed not in compliance with said provisions and regulations shall be subject to

seizure on complaint of the department to a court of competent jurisdiction in the area in which said commercial feed is located. In the event the court finds the said commercial feed to be in violation of this chapter and orders the condemnation of said commercial feed, it shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of the state: *Provided*, That in no instance shall the disposition of said commercial feed be ordered by the court without first giving the claimant an opportunity to apply to the court for release of said commercial feed or for permission to process or relabel said commercial feed to bring it into compliance with this chapter. [1975 1st ex.s. c 257 § 7; 1965 ex.s. c 31 § 16.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.53.9044 Disposition of moneys. All moneys collected under the provisions of this chapter shall be paid into the commercial feed fund in the state treasury which is hereby established. Such fund shall be used only in the administration and enforcement of this chapter. All moneys collected under the provisions of chapter 15.53 RCW and remaining in such commercial feed account in the state general fund on the effective date of this chapter, shall be used in enforcement of this chapter. [1975 1st ex.s. c 257 § 8; 1965 ex.s. c 31 § 19.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.53.9053 Repealer—Continuation of prior licenses and registrations—1975 1st ex.s. c 257. (1) The following acts or parts of acts are each repealed:

(a) Section 10, chapter 31, Laws of 1965 ex. sess., section 33, chapter 240, Laws of 1967 and RCW 15.53.9026; and

(b) Sections 11 through 14, chapter 31, Laws of 1965 ex. sess. and RCW 15.53.9028 through 15.53.9034.

(2) The enactment of *this act and the repeal of the sections listed in subsection (1) of this section shall not have the effect of terminating, or in any way modify any liability, civil or criminal, which shall already be in existence on July 1, 1975.

(3) All licenses and registrations in effect on July 1, 1975 shall continue in full force and effect until their regular expiration date, December 31, 1975. No registration or license that has already been paid under the requirements of prior law shall be refunded. [1975 1st ex.s. c 257 § 12.]

***Reviser's note:** "this act" [1975 1st ex.s. c 257] consists of this section and amendments to RCW 15.13.470, 15.49.470, 15.53.901, 15.53.9014, 15.53.9018, 15.53.9036, 15.53.9038, 15.53.9044, 15.54.350, 15.54.360, 15.54.480.

Effective date—1975 1st ex.s. c 257: "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 on July 1, 1975." [1975 1st ex.s. c 257 § 13.]

Chapter 15.54
FERTILIZERS, AGRICULTURAL MINERALS AND LIMES

(Washington commercial fertilizer act)

Sections

15.54.350	Inspection fees.
15.54.360	Inspection fees—Reports—Late-collection fee—Confidentiality, exception.
15.54.480	Fertilizer, agricultural mineral and lime fund—Disposition of moneys.

15.54.350 Inspection fees. (1) Each distributor of a commercial fertilizer in this state shall pay to the department an inspection fee of seven cents per ton of lime and thirteen cents per ton of all other commercial fertilizer sold by such person during the year beginning July 1st and ending June 30th.

(2) In computing the tonnage on which the inspection fee must be paid, sales of commercial fertilizers to fertilizer manufacturers, sales of commercial fertilizers in packages weighing five pounds net or less, and sales of commercial fertilizers for shipment to points outside this state may be excluded.

(3) When more than one distributor is involved in the distribution of a commercial fertilizer, the last registrant who distributes to a nonregistrant (dealer or consumer) is responsible for reporting the tonnage and paying the inspection fee, unless the reporting and paying of fees have been made by a prior distributor of the fertilizer. [1975 1st ex.s. c 257 § 9; 1967 ex.s. c 22 § 23.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.54.360 Inspection fees—Reports—Late-collection fee—Confidentiality, exception. (1) Each person made responsible by this chapter for the payment of inspection fees for commercial fertilizers sold in this state shall file a report with the department on October 1st, January 1st, April 1st, and July 1st of each year showing the number of tons of such commercial fertilizers sold during the three calendar months immediately preceding the date the report is due: *Provided*, That upon permission of the department, an annual statement under oath may be filed by any person distributing within the state less than fifty tons per quarter during any calendar year, and upon filing such statement such person shall pay the inspection fee at the rate stated in RCW 15.54.350(1) as now or hereafter amended. The department may accept sales records or other records accurately reflecting the tonnage sold in verifying such reports. The proper inspection fee shall be remitted with the report. The person required to file the report and pay the fee shall have a thirty-day period of grace immediately following the day the report and payment are due to file the report, and pay the fee.

(2) Inspection fees which are due and owing and have not been remitted to the department within thirty days following the due date shall have a late-collection fee of ten percent, but not less than five dollars, added to the amount due when payment is finally made. The assessment of this late-collection fee shall not prevent the department from taking any other action as provided for in this chapter.

(3) The report required by subsection (1) hereof shall not be a public record, and it shall be a misdemeanor for any person to divulge any information given in such report which would reveal the business operation of the person making the report: *Provided*, That nothing contained in this subsection shall be construed to prevent or make unlawful the use of information concerning the business operation of a person in any action, suit, or proceeding instituted under the authority of this chapter, including any civil action for collection of unpaid inspection fees, which action is hereby authorized and which shall be as an action at law in the name of the director of the department. [1975 1st ex.s. c 257 § 10; 1967 ex.s. c 22 § 24.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

15.54.480 Fertilizer, agricultural mineral and lime fund—Disposition of moneys. All moneys collected under the provisions of this chapter shall be paid into the fertilizer, agricultural mineral and lime fund in the state treasury which is hereby established. Such fund shall be used only in the administration and enforcement of this chapter. All moneys collected under the provisions of chapter 15.54 RCW and remaining in such fertilizer, agricultural mineral and lime account in the state general fund on July 1, 1975, shall likewise be used only in the enforcement of this chapter. [1975 1st ex.s. c 257 § 11; 1967 ex.s. c 22 § 36.]

Construction—Effective date—1975 1st ex.s. c 257: See RCW 15.53.9053 and note.

Chapter 15.65
WASHINGTON STATE AGRICULTURAL ENABLING ACT OF 1961

Sections

15.65.020	Definitions.
15.65.140	Minimum assent requirements prerequisite to order or amendment affecting producers or producer marketing.
15.65.160	Ascertainment of required assent percentages.
15.65.250	Nominations for election to commodity board.

15.65.020 Definitions. The following terms are hereby defined:

(1) "Director" means the director of agriculture of the state of Washington or his duly appointed representative. The phrase "director or his designee" means the director unless, in the provisions of any marketing agreement or order, he has designated an administrator, board or other designee to act for him in the matter designated, in which case "director or his designee" means for such order or agreement the administrator, board or other person(s) so designated and not the director.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Marketing agreement" means an agreement entered into and issued by the director pursuant to this chapter.

(5) "Agricultural commodity" means any distinctive type of agricultural, horticultural, viticultural, floricultural, vegetable or animal product, either in its natural or processed state, including bees and honey but not including timber or timber products. The director is hereby authorized to determine (on the basis of common usage and practice) what kinds, types or sub-types should be classed together as an agricultural commodity for the purposes of this chapter.

(6) "Production area" and "marketing area" means any area defined as such in any marketing order or agreement in accordance with RCW 15.65.350. "Affected area" means the marketing or production area so defined in such order, agreement or proposal.

(7) "Unit" of an agricultural commodity means a unit of volume, weight, quantity, or other measure in which such commodity is commonly measured. The director shall designate in each marketing order and agreement the unit to be used therein.

(8) "Affected unit" means in the case of marketing agreements and orders drawn on the basis of a production area, any unit of the commodity specified in or covered by such agreement or order which is produced in such area and sold or marketed or delivered for sale or marketing; and "affected unit" means, in the case of marketing agreements and orders drawn on the basis of marketing area, any unit of the commodity specified in or covered by such agreement or order which is sold or marketed or delivered for sale or marketing within such marketing area: *Provided*, That in the case of marketing agreements "affected unit" shall include only those units which are produced by producers or handled by handlers who have assented to such agreement.

(9) "Affected commodity" means that part or portion of any agricultural commodity which is covered by or forms the subject matter of any marketing agreement or order or proposal, and includes all affected units thereof as herein defined and no others.

(10) "Producer" means any person engaged in the business of producing any agricultural commodity for market in commercial quantities. "Affected producer" means any producer of an affected commodity. "To produce" means to act as a producer. For the purposes of RCW 15.65.140 and 15.65.160 as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(11) "Handler" means any person who acts, either as principal, agent or otherwise, in processing, selling, marketing or distributing an agricultural commodity which was not produced by him. "Affected handler" means any handler of an affected commodity. "To handle" means to act as a handler.

(12) "Producer-handler" means any person who acts both as a producer and as a handler with respect to any agricultural commodity. A producer-handler shall be deemed to be a producer with respect to the agricultural commodities which he produces, and a handler with respect to the agricultural commodities which he handles, including those produced by himself.

(13) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of congress of the United States of February 18, 1922 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(14) "Member of a cooperative association" means any producer who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is a party to a marketing agreement with such cooperative association with respect to such product.

(15) "Producer marketing" or "marketed by producers" means any or all operations performed by any producer or cooperative association of producers in preparing for market and marketing, and shall include: (a) selling any agricultural commodity produced by such producer(s) to any handler; (b) delivering any such commodity or otherwise disposing of it for commercial purposes to or through any handler.

(16) "Commercial quantities" as applied to producers and/or production means such quantities per year (or other period of time) of an agricultural commodity as the director finds are not less than the minimum which a prudent man engaged in agricultural production would produce for the purpose of making such quantity of such commodity a substantial contribution to the economic operation of the farm on which such commodity is produced. "Commercial quantities" as applied to handlers and/or handling means such quantities per year (or other period of time) of an agricultural commodity or product thereof as the director finds are not less than the minimum which a prudent man engaged in such handling would handle for the purpose of making such quantity a substantial contribution to the handling operation in which such commodity or product thereof is so handled. In either case the director may in his discretion: (a) determine that substantial quantity is any amount above zero; and (b) apply the quantity so determined on a uniform rule applicable alike to all persons which he finds to be similarly situated.

(17) "Commodity board" means any board established pursuant to RCW 15.65.220. "Board" means any such commodity board unless a different board is expressly specified.

(18) "Sell" includes offer for sale, expose for sale, have in possession for sale, exchange, barter or trade.

(19) "Section" means a section of this chapter unless some other statute is specifically mentioned. The present includes the past and future tenses, and the past or future the present. The masculine gender includes the feminine and neuter. The singular number includes the plural and the plural includes the singular.

(20) "Represented in a referendum" means that a written document evidencing approval or assent or disapproval or dissent is duly and timely filed with or mailed to the director by or on behalf of an affected producer and/or a volume of production of an affected

commodity in a form which the director finds meets the requirements of this chapter.

(21) "Person" as used in this chapter shall mean any person, firm, association or corporation. [1975 1st ex.s. c 7 § 2; 1961 c 256 § 2.]

15.65.140 Minimum assent requirements prerequisite to order or amendment affecting producers or producer marketing. No marketing order or amendment thereto directly affecting producers or producer marketing shall be issued unless the director determines (in accordance with any of the procedures described at RCW 15.65-.160) that the issuance of such order or amendment is assented to or favored by producers who during a representative period determined by the director constituted either (1) at least sixty-five percent by numbers and at least fifty-one percent by volume of production of the producers who have been engaged within the area of production specified in such marketing order in the production for market of the commodity specified therein, or who during such representative period have been engaged in the production of such commodity for marketing in the marketing area specified in such marketing order, or (2) at least fifty-one percent by numbers and at least sixty-five percent by volume of production of such producers: *Provided*, That producers shall be deemed to have assented to or approved a proposed amendment order if sixty percent or more by number and sixty percent or more by volume of those replying assent or approve the proposed order in a referendum. [1975 1st ex.s. c 7 § 3; 1961 c 256 § 14.]

15.65.160 Ascertainment of required assent percentages. After publication of his final decision, the director shall ascertain (either by written agreement in accordance with subdivision (1) of this section or by referendum in accordance with subdivision (2) of this section) whether the above specified percentages of producers and/or handlers assent to or approve any proposed order, amendment or termination, and for such purpose:

(1) The director may ascertain whether assent or approval by the percentages specified in RCW 15.65.140, 15.65.150 or 15.65.190 (whichever is applicable) have been complied with by written agreement, and the requirements of assent or approval shall, in such case, be held to be complied with, if of the total number of affected producers or affected handlers and the total volume of production of the affected commodity or product thereof, the percentages evidencing assent or approval are equal to or in excess of the percentages specified in said sections; or

(2) The director may conduct a referendum among producers and the requirements of assent or approval shall be held to be complied with if of the total number of producers and the total volume of production represented in such referendum the percentage assenting to or favoring is equal to or in excess of the percentage specified in RCW 15.65.140, 15.65.150 or 15.65.190 (whichever is applicable) as now or hereafter amended: *Provided*, That thirty percent of the affected producers producing thirty percent by volume of the affected commodity have been represented in a referendum to

determine assent or approval of the issuance of a marketing order: *Provided further*, That a marketing order shall not become effective when the provisions of subdivision (3) of this section are used unless sixty-five percent by number of the affected producers producing fifty-one percent by volume of the affected commodity or fifty-one percent by number of the affected producers producing sixty-five percent by volume of the affected commodity approve such marketing order;

(3) The director shall consider the assent or dissent or the approval or disapproval of any cooperative marketing association authorized by its producer members either by a majority vote of those voting thereon or by its articles of incorporation or by its bylaws or by any marketing or other agreement to market the affected commodity for such members or to act for them in any such referendum as being the assent or dissent or the approval or disapproval of the producers who are members of or stockholders in or under contract with such cooperative association of producers: *Provided*, That the association shall first determine that a majority of its affected producers authorizes its action concerning the specific marketing order. [1975 1st ex.s. c 7 § 4; 1961 c 256 § 16.]

15.65.250 Nominations for election to commodity board. For the purpose of nominating candidates to be voted upon for election to such board memberships, the director shall call separate meetings of the affected producers and handlers and in case elections shall be by districts he shall call separate meetings for each district. However, at the inception any marketing agreement or order nominations may be at the issuance hearing. Nomination meetings shall be called annually and at least thirty days in advance of the date set for the election of board members. Notice of every such meeting shall be published in a newspaper of general circulation within the affected area defined in the order or agreement not less than ten days in advance of the date of such meeting and in addition, written notice of every such meeting shall be given to all affected producers and/or handlers according to the list thereof maintained by the director pursuant to RCW 15.65.200. However, if the agreement or order provides for election by districts such written notice need be given only to the producers or handlers residing in or whose principal place of business is within such district. Nonreceipt of notice by any interested person shall not invalidate proceedings at such meetings. Any qualified person may be nominated orally for membership upon such board at the said meetings. Nominations may also be made within five days after any such meeting by written petition filed with the director signed by not less than five producers or handlers, as the case may be, entitled to have participated in said meeting.

When only one nominee is nominated for any position on the board the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected. [1975 1st ex.s. c 7 § 5; 1961 c 256 § 25.]

Chapter 15.66
WASHINGTON AGRICULTURAL ENABLING ACT
OF 1955

Sections

15.66.010	Definitions.
15.66.060	Lists of affected producers—Notice—Hearing notice.
15.66.090	Determined assent of affected producers.
15.66.120	Commodity commission—Nominations—Elections—Vacancies.
15.66.130	Commodity commission—Meetings—Quorum—Compensation.

15.66.010 Definitions. For the purposes of this chapter:

(1) "Director" means the director of agriculture of the state of Washington or any qualified person or persons designated by the director of agriculture to act for him concerning some matter under this chapter.

(2) "Department" means the department of agriculture of the state of Washington.

(3) "Marketing order" means an order issued by the director pursuant to this chapter.

(4) "Agricultural commodity" means any distinctive type of agricultural, horticultural, viticultural, vegetable, and/or animal product within its natural or processed state, including bees and honey but not including timber or timber products. The director is authorized to determine what kinds, types or subtypes should be classed together as an agricultural commodity for the purposes of this chapter.

(5) "Producer" means any person engaged in the business of producing or causing to be produced for market in commercial quantities any agricultural commodity. For the purposes of RCW 15.66.060, 15.66.090, and 15.66.120, as now or hereafter amended "producer" shall include bailees who contract to produce or grow any agricultural product on behalf of a bailor who retains title to the seed and its resulting agricultural product or the agricultural product delivered for further production or increase.

(6) "Affected producer" means any producer of an affected commodity.

(7) "Affected commodity" means any agricultural commodity for which the director has established a list of producers pursuant to RCW 15.66.060.

(8) "Commodity commission" or "commission" means a commission formed to carry out the purposes of this chapter under a particular marketing order concerning an affected commodity.

(9) "Unit" means a unit of volume, quantity or other measure in which an agricultural commodity is commonly measured.

(10) "Unfair trade practice" means any practice which is unlawful or prohibited under the laws of the state of Washington including but not limited to Titles 15, 16 and 69 RCW and chapters 9.16, 19.24, 19.77, 19.80, 19.84, 19.89, 19.90, and 19.83 RCW, or any practice, whether concerning interstate or intrastate commerce that is unlawful under the provisions of the act of Congress of the United States, September 26, 1914, chapter 311, section 5, 38 U.S. Statutes at Large

719 as amended, known as the "Federal Trade Commission Act of 1914", or the violation of or failure accurately to label as to grades and standards in accordance with any lawfully established grades or standards or labels.

(11) "Person" includes any individual, firm, corporation, trust, association, partnership, society, or any other organization of individuals.

(12) "Cooperative association" means any incorporated or unincorporated association of producers which conforms to the qualifications set out in the act of Congress of the United States, Feb. 18, 1922, chapter 57, sections 1 and 2, 42 U.S. Statutes at Large 388 as amended, known as the "Capper-Volstead Act" and which is engaged in making collective sales or in marketing any agricultural commodity or product thereof or in rendering service for or advancing the interests of the producers of such commodity on a nonprofit cooperative basis.

(13) "Member of a cooperative association" or "member" means any producer of an agricultural commodity who markets his product through such cooperative association and who is a voting stockholder of or has a vote in the control of or is under a marketing agreement with such cooperative association with respect to such product. [1975 1st ex.s. c 7 § 6; 1961 c 11 § 15.66.010. Prior: 1955 c 191 § 1.]

15.66.060 Lists of affected producers—Notice—Hearing notice. Upon receipt of a petition for the issuance, amendment, or termination of a marketing order, the director shall establish a list of producers of the agricultural commodity affected or make any such existing list current. In establishing or making current such a list of producers and their individual production, the director shall publish a notice to producers of the commodity to be affected requiring them to file with the director a report showing the producer's name, mailing address, and the yearly average quantity of the affected commodity produced by him in the three years preceding the date of the notice or in such lesser time as the producer has produced the commodity in question. Such information as to production may also be accepted from other valid sources if readily available. The notice shall be published once a week for four consecutive weeks in such newspaper or newspapers, including a newspaper or newspapers of general circulation within the affected areas, as the director may prescribe, and shall be mailed to all affected producers on record with the director. All reports shall be filed with the director within twenty days from the last date of publication of the notice or within thirty days after the mailing of the notice to affected producers, whichever is the later. The director shall keep such lists at all times as current as possible and may require information from affected producers at various times in accordance with rules and regulations prescribed by the director: *Provided*, That any commission established under the provisions of this chapter may at its discretion prior to any election for any purpose by such commission carry out the above stated mandate to the director for establishing a list of producers and their individual production, and supply

the director with a current list of all producers subject to the provisions of the marketing order under which it was formed.

Such producer list shall be final and conclusive in making determinations relative to the assent by producers upon the issuance, amendment or termination of a marketing order and in elections under the provisions of this chapter.

The director shall then notify affected producers, so listed, by mail that the public hearing affording opportunity for them to be heard upon the proposed issuance, amendment, or termination of the marketing order will be heard at the time and place stated in the notice. Such notice of the hearing shall be given not less than ten days nor more than sixty days prior to the hearing. [1975 1st ex.s. c 7 § 7; 1969 c 66 § 1; 1961 c 11 § 15.66-.060. Prior: 1955 c 191 § 6.]

15.66.090 Determined assent of affected producers.

After the issuance by the director of the final decision approving the issuance, amendment, or termination of a marketing order, the director shall determine by a referendum whether the affected producers assent to the proposed action or not. The director shall conduct the referendum among the affected producers based on the list as provided for in RCW 15.66.060, and the affected producers shall be deemed to have assented to the proposed issuance or termination order if fifty-one percent or more by number reply to the referendum within the time specified by the director, and if, of those replying, sixty-five percent or more by number and fifty-one percent or more by volume assent to the proposed order. The producers shall be deemed to have assented to the proposed amendment order if sixty percent or more by number and sixty percent or more by volume of those replying assent to the proposed order. The determination by volume shall be made on the basis of volume as determined in the list of affected producers created under provisions of RCW 15.66.060, subject to rules and regulations of the director for such determination. The director shall consider the approval or disapproval of any cooperative marketing association authorized by its producer members to act for them in any such referendum, as being the approval or disapproval of the producers who are members of or stockholders in or under contract with such association of cooperative producers: *Provided*, That the association shall first determine that a majority of the membership of the association authorize its action concerning the specific marketing order. If the requisite assent is given, the director shall promulgate the order and shall mail notices of the same to all affected producers. [1975 1st ex.s. c 7 § 8; 1961 c 11 § 15.66.090. Prior: 1955 c 191 § 9.]

15.66.120 Commodity commission—Nominations—Elections—Vacancies. Not less than ninety days nor more than one hundred and five days prior to the beginning of each term of each elected commission member, the director shall give notice by mail to all affected producers of the vacancy and call for nominations in accordance with this section and with the

provisions of the marketing order and shall give notice of the final date for filing nominations, which shall not be less than eighty days nor more than eighty-five days before the beginning of such term. Such notice shall also advise that nominating petitions shall be signed by five persons qualified to vote for such candidates or, if the number of nominating signers is provided for in the marketing order, such number as such order provides.

Not less than sixty days nor more than seventy-five days prior to the commencement of such commission member term, the director shall submit by mail ballots to all affected producers, which ballots shall be required to be returned to the director not less than thirty days prior to the commencement of such term. Such mail ballot shall be conducted in a manner so that it shall be a secret ballot. With respect to the first commission for a particular commodity, the director may call for nominations in the notice of his decision following the hearing and the ballot may be submitted at the time the director's proposed order is submitted to the affected producers for their assent.

Said elected members may be elected from various districts within the area covered by the marketing order if the order so provides, with the number of members from each district to be in accordance with the provisions of the marketing order.

The members of the commission not elected by the affected producers shall be elected by a majority of the commission at a meeting of the commission within ninety days prior to expiration of the term but to fill nonelective vacancies caused by other reasons than the expiration of a term, the new member shall be elected by the commission at its first meeting after the occurrence of the vacancy.

When only one nominee is nominated for any position on the commission, the director shall deem that said nominee satisfies the requirements of the position and then it shall be deemed that said nominee has been duly elected. [1975 1st ex.s. c 7 § 9; 1961 c 11 § 15.66-.120. Prior: 1955 c 191 § 12.]

15.66.130 Commodity commission—Meetings—Quorum—Compensation. Each commodity commission shall hold such regular meetings as the marketing order may prescribe or that the commission by resolution may prescribe, together with such special meetings that may be called in accordance with provisions of its resolutions upon reasonable notice to all members thereof. A majority of the members shall constitute a quorum for the transaction of all business of the commission. In the event of a vacancy in an elected or appointed position on the commission, the remaining elected members of the commission shall select a qualified person to fill the unexpired term.

No member of the commission shall receive any salary or other compensation from the commission except that each member shall receive a specified sum as provided in the marketing order not in excess of thirty-five dollars per day for each day spent in actual attendance at or traveling to and from meetings of the commission or on special assignments for the commission, together

with subsistence and traveling expense at the rate allowed by law to state employees. [1975 1st ex.s. c 7 § 10; 1972 ex.s. c 112 § 3; 1961 c 11 § 15.66.130. Prior: 1955 c 191 § 13.]

Chapter 15.76 AGRICULTURAL FAIRS, YOUTH SHOWS, EXHIBITIONS

Sections

15.76.170 Fairs commission—Creation, terms, compensation, powers and duties.

15.76.170 Fairs commission—Creation, terms, compensation, powers and duties. There is hereby created a fairs commission to consist of the director of agriculture as ex officio member and chairman, and seven members appointed by the director to be persons who are interested in fair activities; at least three of whom shall be from the east side of the Cascades and three from the west side of the Cascades and one member at large. The first appointment shall be: Three for a one year term, two for a two year term, and two for a three year term, and thereafter the appointments shall be for three year terms.

Appointed members of the commission shall receive thirty-five dollars per diem for each day actually spent on commission business plus actual travel expense payable on proper vouchers submitted to and approved by the director, and payable from that portion of the state fair fund set aside for administrative costs under this chapter. The commission shall meet at the call of the chairman, but at least annually. It shall be the duty of the commission to act as an advisory committee to the director, to assist in the preparation of the merit rating used in determining allocations to be made to fairs, and to perform such other duties as may be required by the director from time to time. [1975 1st ex.s. c 7 § 11; 1961 c 61 § 8.]

Title 16 ANIMALS, ESTRAYS, BRANDS AND FENCES

Chapters

- 16.13 Horses, mules, donkeys, cattle at large.
- 16.24 Stock restricted areas.
- 16.28 Estrays.
- 16.49A Washington meat inspection act.
- 16.67 Washington state beef commission act.

Chapter 16.13 HORSES, MULES, DONKEYS, CATTLE AT LARGE

Sections

- 16.13.010 Horses, mules, donkeys, or cattle not permitted at large—Exceptions.
- 16.13.020 Public nuisance—Impounding.
- 16.13.030 Where impounded—Identifying animal.
- 16.13.040 Notice of impounding—Publication—Copy to owner.

16.13.060 Sale of animal.

16.13.010 Horses, mules, donkeys, or cattle not permitted at large—Exceptions. It shall be unlawful for the owner of any horses, mules, donkeys, or cattle of any age to permit such animals to run at large and not under the care of a herder: *Provided*, That such animals may run at large upon lands belonging to the state or to the United States when the owner thereof has in writing been granted grazing privileges, and has filed a copy of such permit or certificate with the director of agriculture: *Provided further*, That cattle of any age may run at large in a range area as provided in chapter 16.24 RCW without a herder. [1975 1st ex.s. c 7 § 13; 1951 c 31 § 1.]

16.13.020 Public nuisance—Impounding. Any horses, mules, donkeys, or cattle of any age running at large in violation of RCW 16.13.010 as now or hereafter amended are declared to be a public nuisance, and shall be impounded by the sheriff of the county where found. [1975 1st ex.s. c 7 § 14; 1951 c 31 § 2.]

16.13.030 Where impounded—Identifying animal. Upon taking custody of any animal, the sheriff shall cause it to be transported to and impounded at the nearest public livestock market licensed under chapter 16.65 RCW or at such place as approved by the director. The sheriff shall forthwith notify the nearest brand inspector of the department of agriculture, who shall examine the animal and by brand, tattoo, or other identifying characteristic, shall attempt to ascertain the ownership thereof. [1975 1st ex.s. c 7 § 15; 1951 c 31 § 3.]

16.13.040 Notice of impounding—Publication—Copy to owner. The brand inspector shall cause to be published once in a newspaper published in the county where the animal was found, a notice of the impounding.

The notice shall state:

- (1) A description of the animal, including brand, tattoo or other identifying characteristics;
- (2) When and where found;
- (3) Where impounded; and
- (4) That if unclaimed, the animal will be sold at a public livestock market sale, and the date of such sale: *Provided*, That if no newspaper shall be published in such county, copies of the notice shall be posted at four commonly frequented places therein.

If the animal is marked with a brand or tattoo which is registered with the director of agriculture, the brand inspector, on or before the date of publication or posting, shall send a copy of the notice to the owner of record by registered mail. [1975 1st ex.s. c 7 § 16; 1951 c 31 § 4.]

16.13.060 Sale of animal. If no person shall claim the animal within ten days after the date of publication or posting of the notice, it shall be sold at the next succeeding public livestock market sale to be held at the sales yard where impounded. [1975 1st ex.s. c 7 § 17; 1951 c 31 § 6.]

Chapter 16.24
STOCK RESTRICTED AREAS

Sections

16.24.040 Penalty.

16.24.040 Penalty. Any person, or any agent, employee or representative of a corporation, violating any of the provisions of such order after the same shall have been published or posted as provided in RCW 16.24-.030 or, violating any provision of this chapter, shall be guilty of a misdemeanor. [1975 c 38 § 1; 1911 c 25 § 4; RRS § 3071.]

Chapter 16.28
ESTRAYS

Sections

16.28.010 through 16.28.150 Repealed.

16.28.010 through 16.28.150 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 16.49A
WASHINGTON MEAT INSPECTION ACT

Sections

16.49A.130 "Meat food product".
16.49A.150 "Capable of use as human food".
16.49A.300 Containers, closing or sealing—Labeling requirements—False or misleading labels—Hearing—Appeal from director's determination.
16.49A.340 Unlawful acts as to official devices, labels, certificates, etc.

16.49A.130 "Meat food product".

Frozen meat and meat food products—Labeling requirements: RCW 69.04.930.

16.49A.150 "Capable of use as human food".

Frozen meat and meat food products—Labeling requirements: RCW 69.04.930.

16.49A.300 Containers, closing or sealing—Labeling requirements—False or misleading labels—Hearing—Appeal from director's determination.

Frozen meat and meat food products—Labeling requirements: RCW 69.04.930.

16.49A.340 Unlawful acts as to official devices, labels, certificates, etc.

Frozen meat and meat food products—Labeling requirements: RCW 69.04.930.

Chapter 16.67
WASHINGTON STATE BEEF COMMISSION ACT

Sections

16.67.120 Levy of assessment.

16.67.120 Levy of assessment. There is hereby levied an assessment of twenty cents per head on all Washington cattle sold in this state or elsewhere to be paid by the seller at the time of sale: *Provided*, That on

July 1, 1977 the assessment of twenty cents per head shall be reduced to ten cents per head, unless the director finds, after a hearing held in accordance with the Administrative Procedure Act, chapter 34.04 RCW, which shall be held at least sixty days prior to July 1, 1977, that the assessment should be otherwise, but in no instance may such assessment exceed twenty cents per head: *Provided further* if such sale is accompanied by a brand inspection by the department such assessment shall be collected at the same time, place and in the same manner as brand inspection fees. Such fees shall be collected by the regulatory division of the department and transmitted to the commission: *Provided further*, That, if such sale is made without a brand inspection by the department the assessment shall be paid by the seller and transmitted directly to the commission not later than thirty days following the sale. [1975 1st ex.s. c 93 § 1; 1969 c 133 § 11.]

Title 17
WEEDS, RODENTS AND PESTS

Chapters

17.10 Noxious weeds—Control boards.
17.21 Washington pesticide application act.

Chapter 17.10
NOXIOUS WEEDS—CONTROL BOARDS

Sections

17.10.010 Definitions.
17.10.040 Activation of inactive county noxious weed control board.
17.10.050 Activated county noxious weed control board—Members—Election—Meetings—Quorum—Expenses—Officers—Vacancy.
17.10.070 State noxious weed control board—Powers.
17.10.080 Proposed noxious weed list—Adoption by state noxious weed control board—Dissemination.
17.10.110 Regional noxious weed control board—Creation.
17.10.150 Owner's duty in controlling noxious weeds on nonagricultural land—Buffer strip defined—Limitation.
17.10.170 Finding presence of noxious weeds—Failure of owner to control—Control by county board—Liability of owner for expense—Lien—Alternative.
17.10.190 Notice and information as to noxious weed control.
17.10.205 Control of noxious weeds in open areas.
17.10.240 Special assessments, appropriations for weed control—Indian reservation lands.
17.10.250 Applications for state financial aid.
17.10.280 Lien for labor, material, equipment used in controlling noxious weeds.
17.10.290 Lien for labor, material, equipment used in controlling noxious weeds—Notice of lien.
17.10.300 Lien for labor, material, equipment used in controlling noxious weeds—Claim—Filing—Contents.
17.10.900 Weed districts—Continuation—Dissolution.
17.10.905 Purpose—Construction—1975 1st ex.s. c 13.

17.10.010 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meanings:

(1) "Noxious weed" means any plant growing in a county which is determined by the state noxious weed control board to be injurious to crops, livestock, or

other property and which is included for purpose of control on such county's noxious weed list.

(2) "Person" means any individual, partnership, corporation, firm, the state or any department, agency, or subdivision thereof, or any other entity.

(3) "Owner" means the person in actual control of property, or his agent, whether such control is based on legal or equitable title or on any other interest entitling the holder to possession and, for purposes of liability, pursuant to RCW 17.10.170 or 17.10.210, means the possessor of legal or equitable title or the possessor of an easement: *Provided*, That when the possessor of an easement has the right to control or limit the growth of vegetation within the boundaries of an easement, only the possessor of such easement shall be deemed, for the purpose of this chapter, an "owner" of the property within the boundaries of such easement.

(4) As pertains to the duty of an owner, the word "control" and the term "prevent the spread of noxious weeds" shall mean conforming to the standards of noxious weed control or prevention adopted by rule or regulation by an activated county noxious weed control board.

(5) "Agent" means any occupant or any other person acting for the owner and working or in charge of the land.

(6) "Agricultural purposes" are those which are intended to provide for the growth and harvest of food and fiber. [1975 1st ex.s. c 13 § 1; 1969 ex.s. c 113 § 1.]

17.10.040 Activation of inactive county noxious weed control board. An inactive county noxious weed control board may be activated by any one of the following methods:

(1) Either within sixty days after a petition is filed by one hundred landowners each owning one acre or more of land within the county or, on its own motion, the county legislative authority shall hold a hearing to determine whether there is a need, due to a damaging infestation of noxious weeds, to activate the county noxious weed control board. If such a need is found to exist, then the county legislative authority shall, in the manner provided by RCW 17.10.050, appoint five persons to hold seats on the county's noxious weed control board.

(2) If the county's noxious weed control board is not activated within one year following a hearing by the county legislative authority to determine the need for activation, then upon the filing with the state noxious weed control board of a petition comprised either of the signatures of at least two hundred owners, each owning one acre of land or more within the county, or of the signatures of a majority of an adjacent county's noxious weed control board, the state board shall, within six months of the date of such filing, hold a hearing in the county to determine the need for activation. If a need for activation is found to exist, then the state board shall order the county legislative authority to activate the county's noxious weed control board and to appoint members to such board in the manner provided by RCW 17.10.050. [1975 1st ex.s. c 13 § 2; 1969 ex.s. c 113 § 4.]

17.10.050 Activated county noxious weed control board—Members—Election—Meetings—Quorum—Expenses—Officers—Vacancy. (1) Each activated county noxious weed control board shall consist of five voting members who shall, at the board's inception, be appointed by the county legislative authority and elected thereafter by the property owners subject to the board. In appointing such voting members, the county legislative authority shall divide the county into five sections, none of which shall overlap and each of which shall be of the same approximate area, and shall appoint a voting member from each section. At least four of such voting members shall be engaged in the primary production of agricultural products. There shall be one nonvoting member on such board who shall be the chief county extension agent or an extension agent appointed by the chief county extension agent. Each voting member of the board shall serve a term of two years, except that the county legislative authority shall, when a board is first activated under this chapter, designate two voting members to serve terms of one year. The board members shall not receive a salary but shall be compensated for actual and necessary expenses incurred in the performance of their official duties.

(2) The elected members of the board shall represent the same districts designated by the county legislative authority in appointing members to the board at its inception. Members of the board shall be elected at least thirty days prior to the expiration of any board member's term of office.

The nomination and election of elected board members shall be conducted by the board at a public meeting held in the section where board memberships are about to expire. Elections at such meetings shall be by secret ballot, cast by the landowners residing in the section where an election for a board member is being conducted. The nominee receiving the majority of votes cast shall be deemed elected, and if there is only one nomination, said nominee shall be deemed elected unanimously.

Notice of such nomination and election meeting shall be mailed to all affected landowners thirty days prior to such meeting. Notice shall be published at least twice in a weekly or daily newspaper of general circulation in said section: *Provided*, That mailed notice shall not be required if assessments provided for in RCW 17.10.240 as now or hereafter amended are not invoked.

(3) Within thirty days after all the members have been appointed, the board shall conduct its first meeting. A majority of the voting members of the board shall constitute a quorum for the transaction of business and shall be necessary for any action taken by the board. The board shall elect from its members a chairman and such other officers as may be necessary.

(4) In case of a vacancy occurring in any elected position on a county noxious weed control board, the county legislative authority of the county in which such board is located shall appoint a qualified person to fill the vacancy for the unexpired term. [1975 1st ex.s. c 13 § 3; 1974 ex.s. c 143 § 1; 1969 ex.s. c 113 § 5.]

17.10.070 State noxious weed control board—Powers. In addition to the powers conferred on the state noxious weed control board under other provisions of this chapter, it shall have power to:

(1) Require the county legislative authority or the noxious weed control board of any county to report to it concerning the presence of noxious weeds and measures, if any, taken or planned for the control thereof;

(2) Employ a state weed supervisor who shall act as executive secretary of the board and who shall disseminate information relating to noxious weeds to county noxious weed control boards and who shall work to coordinate the efforts of the various county and regional noxious weed control boards;

(3) Do such things as may be necessary and incidental to the administration of its functions pursuant to this chapter. [1975 1st ex.s. c 13 § 4; 1969 ex.s. c 113 § 7.]

17.10.080 Proposed noxious weed list—Adoption by state noxious weed control board—Dissemination. The state noxious weed control board shall each year or more often, following a hearing, adopt a list comprising the names of those plants which it finds to be injurious to crops, livestock or other property. At such hearing any county noxious weed control board may request the inclusion of any plant to the list to be adopted by the state board.

Such list when adopted shall be designated as the "proposed noxious weed list", and the state board shall send a copy of the same to each activated county noxious weed control board, to each regional noxious weed control board, and to the county legislative authority of each county with an inactive noxious weed control board. [1975 1st ex.s. c 13 § 5; 1969 ex.s. c 113 § 8.]

17.10.110 Regional noxious weed control board—Creation. A regional noxious weed control board comprising the area of two or more counties may be created as follows:

Either each county legislative authority or each noxious weed control board of two or more counties may, upon a determination that the purpose of this chapter will be served by the creation of a regional noxious weed control board, adopt a resolution providing for a limited merger of the functions of their respective counties noxious weed control boards. Such resolution shall become effective only when a similar resolution is adopted by the other county or counties comprising the proposed regional board. [1975 1st ex.s. c 13 § 6; 1969 ex.s. c 113 § 11.]

17.10.150 Owner's duty in controlling noxious weeds on nonagricultural land—Buffer strip defined—Limitation. (1) The county noxious weed control board in each county may classify lands for the purposes of this chapter. In regard to any land which is classified by the county noxious weed control board as not being used for agricultural purposes, the owner thereof shall have the following limited duty to control noxious weeds present on such land:

(a) The owner shall control and prevent the spread of noxious weeds on any portion of such land which is within the buffer strip around land used for agricultural purposes. The buffer strip shall be land which is within one thousand feet of land used for agricultural purposes.

(b) In any case of a serious infestation of a particular noxious weed, which infestation exists within the buffer strip of land described in paragraph (a) of subsection (1) of this section, and which extends beyond said buffer strip of land, the county noxious weed control board may require that the owner of such buffer strip of land take such measures, both within said buffer zone of land as well as on other land owned by said owner contiguous to said buffer strip of land on which such serious infestation has spread, as are necessary to control and prevent the spread of such particular noxious weed.

For purposes of this subsection, land shall not be classified as or considered as being used for agricultural purposes when the sole reason for classifying or considering it as such is that it is being used for the growing, planting or harvesting of trees for timber.

(2) In regard to any land which is classified by the county noxious weed control board as scab or range land, the board may limit the duty of the owner thereof to control noxious weeds present on such land. The board may share the cost of controlling such weeds, may provide for a buffer strip around the perimeter of such land or may take any other reasonable measures to control noxious weeds on such land at an equitable cost to the owner. The board shall classify as range or scab land all that land within the county for which the board finds that the cost of controlling all of the noxious weeds present would be disproportionately high when compared to the benefits derived from noxious weed control on such land. [1975 1st ex.s. c 13 § 7; 1974 ex.s. c 143 § 2; 1969 ex.s. c 113 § 15.]

17.10.170 Finding presence of noxious weeds—Failure of owner to control—Control by county board—Liability of owner for expense—Lien—Alternative. (1) Whenever the county noxious weed control board finds that noxious weeds are present on any parcel of land, and that the owner thereof is not taking prompt and sufficient action to control the same, pursuant to the provisions of RCW 17.10.140, it shall notify such owner that a violation of this chapter exists. Such notice shall be in writing, identify the noxious weeds found to be present, order prompt control action, and specify the time within which the prescribed action must be taken.

(2) If the owner does not take action to control the noxious weeds in accordance with the notice, the county board may control them, or cause their being controlled, at the expense of the owner. The amount of such expense shall constitute a lien against the property and may be enforced by proceedings on such lien except as provided for by RCW 79.44.060. The owner shall be liable for payment of the expense, and nothing in this chapter shall be construed to prevent collection of any judgment on account thereof by any means

available pursuant to law, in substitution for enforcement of the lien. Funds received in payment for the expense of controlling noxious weeds shall be transferred to the county noxious weed control board to be expended as required to carry out the purposes of this chapter.

(3) The county auditor shall record in his office any lien created under this chapter, and any such lien shall bear interest at the rate of eight percent per annum from the date on which the county noxious weed control board approves the amount expended in controlling such weeds.

(4) As an alternative to the enforcement of any lien created under subsection (2) of this section, the county legislative authority may by resolution or ordinance require that each such lien created shall be collected by the treasurer in the same manner as a delinquent real property tax, if within thirty days from the date the owner is sent notice of the lien, including the amount thereof, the lien remains unpaid and an appeal has not been made pursuant to RCW 17.10.180. Liens treated as delinquent taxes shall bear interest at the same rate as delinquent real property taxes and such interest shall accrue as of the date notice of the lien is sent to the owner: *Provided*, That any collections for such lien shall not be considered as tax. [1975 1st ex.s. c 13 § 8; 1974 ex.s. c 143 § 3; 1969 ex.s. c 113 § 17.]

17.10.190 Notice and information as to noxious weed control. Each activated county noxious weed control board shall cause to be published in at least one newspaper of general circulation within its area a general notice during the month of March and at such other times as may be appropriate. Such notice shall direct attention to the need for noxious weed control and shall give such other information with respect thereto as may be appropriate, or shall indicate where such information may be secured. In addition to the general notice required hereby, the county noxious weed control board may use any appropriate media for the dissemination of information to the public as may be calculated to bring the need for noxious weed control to the attention of owners. The board may consult with individual owners concerning their problems of noxious weed control and may provide them with information and advice, including giving specific instructions and methods when and how certain named weeds are to be controlled. Such methods may include definite systems of tillage, cropping, management, and use of livestock. Publication of a notice as required by this section shall not be a condition precedent to the enforcement of this chapter. [1975 1st ex.s. c 13 § 9; 1969 ex.s. c 113 § 19.]

17.10.205 Control of noxious weeds in open areas. Open areas subject to the spread of noxious weeds, other than crop land, including but not limited to subdivisions, school grounds, playgrounds, parks, and rights of way shall be subject to regulation by activated county noxious weed control boards in the same manner and to the same extent as is provided for agricultural lands. [1975 1st ex.s. c 13 § 16.]

17.10.240 Special assessments, appropriations for weed control—Indian reservation lands. (1) The activated county weed control boards of each county shall annually submit a budget to the county legislative authority for the operating cost of the county's weed program for the ensuing fiscal year. Control of weeds is a special benefit to the lands within any such district. The county legislative authority may, in lieu of a tax, levy an assessment against the land for this purpose. Prior to the levying of an assessment the county weed control board shall hold a public hearing at which it shall gather information to serve as a basis for classification and shall then classify the lands into suitable classifications. The board shall develop and forward to the county legislative authority, as a proposed level of assessment for each class, such an amount as shall seem just, but which shall be uniform per acre in its respective class: *Provided*, That if no special benefits should be found to accrue to a class of land, a zero assessment may be levied. The legislative authority, upon receipt of the proposed levels of assessment from the board, after a hearing, shall accept, modify, or refer back to the board for their reconsideration all or any portion of the proposed levels of assessment. The findings by the county legislative authority of such special benefits, when so declared by resolution and spread upon the minutes of said authority shall be conclusive as to whether or not the same constitutes a special benefit to the lands within the district.

(2) In addition, the county legislative authority may appropriate money from the county general fund necessary for the administration of the county noxious weed control program. In addition the county legislative authority may make emergency appropriations as it deems necessary for the implementation of this chapter.

(3) Neither the legislative authority of a county nor the county weed control board activated in a county shall expend money from the county general fund or assessments levied for the operation of such activated county weed control board on any lands within the boundaries of any Indian reservation unless the tribal council of such reservation contracts with the legislative authority of the county and its activated weed control board to carry out its program on such reservation lands: *Provided*, That the fees charged any Indian reservation for services rendered by the weed control board in controlling weeds on Indian reservation lands shall be no less than the fees assessed land owners of similar lands within the county jurisdiction of such activated weed control board. [1975 1st ex.s. c 13 § 10; 1969 ex.s. c 113 § 24.]

17.10.250 Applications for state financial aid. The legislative authority of any county with an activated noxious weed control board may apply to the state noxious weed control board for state financial aid in an amount not to exceed fifty percent of the locally funded portion of the annual operating cost of such noxious weed control board. Any such aid shall be expended from the general fund from such appropriation as the legislature may provide for this purpose. [1975 1st ex.s. c 13 § 11; 1969 ex.s. c 113 § 25.]

17.10.280 Lien for labor, material, equipment used in controlling noxious weeds. Every activated county noxious weed board performing labor upon, furnishing material, or renting, leasing or otherwise supplying equipment, to be used in the control of noxious weeds, or in causing control of noxious weeds upon any property pursuant to the provisions of chapter 17.10 RCW has a lien upon such property for the labor performed, material furnished, or equipment supplied whether performed, furnished, or supplied with the consent of the owner, or his agent, of such property, or without the consent of said owner or agent. [1975 1st ex.s. c 13 § 13.]

17.10.290 Lien for labor, material, equipment used in controlling noxious weeds—Notice of lien. Every county noxious weed control board furnishing labor, materials, or supplies or renting, leasing, or otherwise supplying equipment to be used in the control of noxious weeds upon any property pursuant to RCW 17.10.160 and 17.10.170 or pursuant to an order under RCW 17.10.210 as now or hereafter amended, shall give to the owner or reputed owner or his agent a notice in writing, within ninety days from the date of the cessation of the performance of such labor, the furnishing of such materials, or the supplying of such equipment, which notice shall cover the labor, material, supplies, or equipment furnished or leased, as well as all subsequent labor, materials, supplies, or equipment furnished or leased, stating in substance and effect that such county noxious weed control board is furnishing or has furnished labor, materials and supplies or equipment for use thereon, with the name of the county noxious weed board ordering the same, and that a lien may be claimed for all materials and supplies or equipment furnished by such county noxious control board for use thereon, which notice shall be given by mailing the same by registered or certified mail in an envelope addressed to the owner at his place of residence or reputed residence. [1975 1st ex.s. c 13 § 14.]

17.10.300 Lien for labor, material, equipment used in controlling noxious weeds—Claim—Filing—Contents. No lien created by RCW 17.10.280 shall exist, and no action to enforce the same shall be maintained, unless within ninety days from the date of cessation of the performance of such labor, furnishing of materials, or the supplying of such equipment, a claim for such lien shall be filed for record as hereinafter provided, in the office of the county auditor of the county in which the property, or some part thereof to be affected thereby, is situated. Such claim shall state, as nearly as may be, the time of the commencement and cessation of performing the labor, furnishing the material, or supplying the equipment, the name of the county noxious weed control board which performed the labor, furnished the material, or supplied the equipment, a description of the property to be charged with the lien sufficient for identification, the name of the owner, or reputed owner if known, or his agent, and if the owner is not known, that fact shall be mentioned, the amount for which the lien is claimed, and shall be signed by the

county noxious weed control board, and be verified by the oath of the county noxious weed control board, to the effect that the affiant believes that claim to be just; and such claim of lien may be amended in case of action brought to foreclose the same, by order of the court, as pleadings may be, insofar as the interest of third parties shall not be affected by such amendment. A claim or lien substantially in the same form provided by RCW 60.04.060 and not in conflict with this section shall be sufficient. [1975 1st ex.s. c 13 § 15.]

17.10.900 Weed districts—Continuation—Dissolution. Any weed district formed under chapter 17.04 or 17.06 RCW prior to the enactment of this chapter, shall continue to operate under the provisions of the chapter under which it was formed: *Provided*, That if ten percent of the landowners subject to any such weed district, and the county weed board upon its own motion, petition the county legislative authority for a dissolution of the weed district, the county legislative authority shall provide for an election to be conducted in the same manner as required for the election of directors under the provisions of chapter 17.04 RCW, to determine by majority vote of those casting votes, if such weed district shall continue to operate under the act it was formed. The land area of any dissolved weed district shall forthwith become subject to the provisions of this chapter. [1975 1st ex.s. c 13 § 12; 1969 ex.s. c 113 § 26.]

17.10.905 Purpose—Construction—1975 1st ex.s. c 13. The purpose of this chapter is to limit economic loss due to the presence and spread of noxious weeds on or near agricultural land.

The intent of the legislature is that this chapter be liberally construed, and that the jurisdiction, powers, and duties granted to the county noxious weed control boards by this chapter are limited only by specific provisions of this chapter or other state and federal law. [1975 1st ex.s. c 13 § 17.]

Chapter 17.21

WASHINGTON PESTICIDE APPLICATION ACT

Sections

17.21.330 Special programs due to use or misuse of restricted herbicides—Fees—Hearings. (Section expires July 1, 1980.)

17.21.330 Special programs due to use or misuse of restricted herbicides—Fees—Hearings. (Section expires July 1, 1980.) For the purpose of implementing special programs necessary to eliminate problems created by the use or misuse of any one or all formulations of herbicides restricted under the provisions of RCW 17.21.030, the director of the department of agriculture is authorized to establish fees necessary to carry out such special programs. The director shall hold a public hearing on or before May 1 of each year to determine the need for such special programs and the assessment for the following fiscal year. On or after June 12, 1975 the director may immediately initiate hearing procedures to implement this section. The pesticide advisory

board shall review, each year, the need for such special programs prior to the public hearing and advise the director of its findings as provided in RCW 17.21.250. To carry out the purposes of this section the director may enter into agreements with other government agencies and research entities, including institutions of higher learning. Fees collected pursuant to this section shall be paid by the first distributor of said herbicides in the state of Washington and shall be limited to a maximum of ten cents per pound of active ingredient. The first distributor of said herbicides shall pay a minimum fee of five dollars per six month reporting period as established by regulation of the department.

The provisions of this section shall expire on July 1, 1980, and thereafter be of no further force and effect whatsoever. [1975 c 27 § 1.]

Title 18 BUSINESSES AND PROFESSIONS

Chapters

- 18.04 Accountancy.
- 18.08 Architects.
- 18.15 Barbering—Men's hairstyling.
- 18.18 Cosmetology.
- 18.20 Boarding homes.
- 18.22 Podiatry.
- 18.25 Chiropractic.
- 18.26 Chiropractic disciplinary board.
- 18.28 Debt adjusting.
- 18.29 Dental hygienist.
- 18.32 Dentistry.
- 18.34 Dispensing opticians.
- 18.35 Hearing aids.
- 18.36 Drugless healing.
- 18.37 Electricians.
- 18.39 Embalmers—Funeral directors.
- 18.43 Engineers and land surveyors.
- 18.50 Midwifery.
- 18.51 Nursing homes.
- 18.52 Nursing home administrators.
- 18.53 Optometry.
- 18.54 Optometry board.
- 18.57 Osteopathy.
- 18.57A Osteopathic physicians' assistants.
- 18.64 Pharmacists.
- 18.71 Physicians.
- 18.71A Physicians' assistants.
- 18.72 Medical disciplinary board.
- 18.74 Physical therapy.
- 18.78 Practical nurses.
- 18.82 Proprietary schools.
- 18.83 Psychologists.
- 18.88 Registered nurses.
- 18.90 Sanitarians.
- 18.92 Veterinary medicine, surgery and dentistry.
- 18.96 Landscape architects.
- 18.106 Plumbers.
- 18.108 Massage operators and businesses.

Chapter 18.04 ACCOUNTANCY

Sections

- 18.04.160 Successive examinations—Application fees.
- 18.04.200 Requirements as to C.P.A. partnerships.
- 18.04.220 Requirements as to L.P.A. partnerships.
- 18.04.280 Application for partnership registration.
- 18.04.290 Annual permits—Issuance—Duration—Fee—Prerequisite to annual renewal.

18.04.160 Successive examinations—Application fees. A candidate who fails an examination shall have the right to take succeeding examinations subject to such rules and regulations as the board may adopt governing reexaminations. The board may for good cause shown, waive the requirement that a candidate must have taken an examination at least once a year. An application for examination or reexamination in any subject shall be accompanied by a fee in an amount determined by the board in accordance with this chapter not to exceed seventy-five dollars. [1975 1st ex.s. c 229 § 1; 1969 c 114 § 2; 1949 c 226 § 15; Rem. Supp. 1949 § 8269–22.]

18.04.200 Requirements as to C.P.A. partnerships. The director of motor vehicles shall register a partnership as a partnership of certified public accountants if the partnership meets the following requirements:

- (1) At least one partner must hold a valid certificate to practice in this state as a certified public accountant;
- (2) Each partner personally engaged within this state in the practice of public accounting must hold a valid certificate to practice in this state as a certified public accountant; and
- (3) Each partner must hold a valid certificate, license, permit or degree authorizing him to practice as a certified public accountant in a state, territory, or possession of the United States;
- (4) Each resident manager in charge of an office of the partnership in this state must hold a valid certificate to practice in this state as a certified public accountant; and
- (5) The application for registration as a partnership of certified public accountants must be approved by the board.

Application for such registration shall be in writing, sworn to by a partner of such partnership who holds a valid certificate to practice in this state as a certified public accountant. A notice of amendment shall be filed with the board within one month after the admission to, or withdrawal of a partner from, any partnership so registered. A fee in an amount determined by the board in accordance with this chapter not to exceed thirty dollars must accompany each original application and each notice of amendment. [1975 1st ex.s. c 229 § 2; 1969 c 114 § 3; 1949 c 226 § 19; Rem. Supp. 1949 § 8269–26. Prior: 1937 c 41 § 3; RRS § 8268–3.]

18.04.220 Requirements as to L.P.A. partnerships. The director of motor vehicles shall register a partnership as a partnership of licensed public accountants if the partnership meets the following requirements:

(1) At least one general partner must hold a valid certificate to practice in this state as a certified public accountant or a valid license to practice in this state as a licensed public accountant;

(2) Each partner personally engaged within this state in the practice of public accounting must hold a valid certificate to practice in this state as a certified public accountant or a valid license to practice in this state as a licensed public accountant;

(3) Each partner must hold a valid certificate, license, permit or degree authorizing him to practice as either a certified public accountant or a licensed public accountant in a state, territory, or possession of the United States;

(4) Each resident manager in charge of an office of the partnership in this state must hold a valid certificate to practice in this state as a certified public accountant or a valid license to practice in this state as a licensed public accountant; and

(5) The application for registration as a partnership of licensed public accountants must be approved by the board.

Application for such registration shall be in writing, sworn to by a partner of such partnership who holds a valid certificate to practice in this state as a certified public accountant or a valid license to practice in this state as a licensed public accountant. A notice of amendment shall be filed with the board within one month after the admission to, or withdrawal of a partner from, any partnership so registered. A fee in an amount determined by the board in accordance with this chapter not to exceed thirty dollars must accompany each original application and each notice of amendment. [1975 1st ex.s. c 229 § 3; 1969 c 114 § 4; 1949 c 226 § 21; Rem. Supp. 1949 § 8269-28.]

18.04.280 Application for partnership registration. Application for registration shall be in writing sworn to by a partner of the applicant partnership who holds a certificate to practice in this state as a certified public accountant or a license to practice in this state as a licensed public accountant or is a registered public accountant of this state. A notice of amendment shall be filed with the board within one month after the admission to, or withdrawal of a partner from, any partnership so registered. A fee in an amount determined by the board in accordance with this chapter not to exceed thirty dollars shall accompany each original application and each notice of amendment. [1975 1st ex.s. c 229 § 4; 1969 c 114 § 5; 1949 c 226 § 27; Rem. Supp. 1949 § 8269-34.]

18.04.290 Annual permits—Issuance—Duration—Fee—Prerequisite to annual renewal. (1) The director of motor vehicles shall upon application issue an annual permit to practice public accounting in this state to any person or partnership authorized to engage in such practice in this state under a valid certificate, license, or registration, to any corporation presently authorized to do business under RCW 18.04.350, as now or hereafter amended, and to any candidate for a certificate as a certified public accountant who has passed

the entire examination given by the examining committee as provided in RCW 18.04.120 as now or hereafter amended. Such permits shall expire on the thirtieth day of June of each year. The annual fee for a permit to practice public accounting in this state shall be in an amount determined by the board in accordance with this chapter not to exceed fifty dollars. In the event the holder of a permit fails to renew the same prior to the expiration thereof such failure shall not deprive a person or partnership otherwise entitled to such permit of the right to renew the same upon the payment of the fees which the applicant would have been required to pay if the permit had been renewed prior to its expiration.

(2) Every person practicing public accounting shall as a prerequisite to annual renewal of such permit, submit to the Washington state board of accountancy satisfactory proof of having, during the preceding three years, completed fifteen days or an accumulation of one hundred twenty hours of continuing education recognized and approved by the board: *Provided*, That this subsection shall not apply to applications for renewal until three years after July 16, 1973: *Provided*, That this requirement may be waived by the board for good cause. [1975 1st ex.s. c 229 § 5; 1973 1st ex.s. c 23 § 1; 1969 c 114 § 6; 1949 c 226 § 28; Rem. Supp. 1949 § 8269-35. Prior: 1933 ex.s. c 56 § 2; RRS § 8269-2.]

Chapter 18.08 ARCHITECTS

Sections

18.08.150	Application for examination—Fee.
18.08.190	Expiration of certificate—Renewal—Fee—Withdrawal of registrant.
18.08.220	Reinstatement of certificate—Replacement of lost or destroyed certificate, charge.

18.08.150 Application for examination—Fee. All applications for examination must be filed with the director not less than sixty days prior to the date set for the examination. The application fee shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Should the director deny issuance of a certificate of registration to any applicant, the examination fee shall not be refundable. Graduates of an approved architectural college may apply for and take the examination but shall not be granted certificates of registration until their required office experience is completed. [1975 1st ex.s. c 30 § 1; 1959 c 323 § 6.]

18.08.190 Expiration of certificate—Renewal—Fee—Withdrawal of registrant. Certificates of registration shall expire on the last day of June following their issuance or renewal. The director shall set the yearly fee for renewal which fee shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Renewal may be effected during the month of June by payment to the director of the fee set. In case any registrant fails to pay the renewal fee before thirty days after the due date, the renewal fee shall be the current fee plus an amount equal to one year's fee:

Provided, That any registrant in good standing may withdraw from practice by giving written notice to the director, and may thereafter resume practice at any time upon payment of the then current annual renewal fee. [1975 1st ex.s. c 30 § 2; 1971 ex.s. c 266 § 1; 1959 c 323 § 10.]

18.08.220 Reinstatement of certificate—Replacement of lost or destroyed certificate, charge. The director may reinstate a certificate of registration to any person whose certificate has been revoked, if three or more members of the board vote in favor of such reissuance, whenever the board shall find that the circumstances or conditions that brought about the revocation are not likely to recur and that the person is then sufficiently trustworthy and reliable that the best interests of the public will be served by reinstatement of his registration. A new certificate of registration to replace any certificate lost, destroyed, or mutilated may be issued by the director and a charge determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be made for such issuance. [1975 1st ex.s. c 30 § 3; 1959 c 323 § 13.]

Chapter 18.15

BARBERING—MEN'S HAIRSTYLING

Sections

- 18.15.040 Qualifications of out-of-state licensees—Application for license—Fee—Notice of examination.
- 18.15.050 Examinations—Time and place—Scope—License or permit—Service under licensed barber—Reexamination—Manager-operator licensee eligible for barbering license.
- 18.15.060 Annual renewal of license or permit.
- 18.15.065 Barber shop location licenses—Fees, renewals, etc.
- 18.15.095 Barber college location licenses—Fees, renewals, etc.
- 18.15.097 Instructors—License required—Application—Qualifications—Examination—Renewal—Fees.
- 18.15.100 Student barbers—Student certificate—Fee—Application for barber's permit.
- 18.15.125 Inspections by examining committee—Fee.
- 18.15.220 Men's hairstyling—Certificate—Fee—Examination—Limitation.

18.15.040 Qualifications of out-of-state licensees—Application for license—Fee—Notice of examination. Any person of good moral character, free from contagious or infectious disease, at least eighteen years of age, having a diploma showing graduation from an eighth grade grammar school or capable of proving an equivalent education, and holding a license authorizing him to practice barbering in any one of the other states of the United States, the District of Columbia, or any territory of the United States or any foreign country (if such person is lawfully entitled to reside in the United States) and submits with his application a certificate of graduation from a barber school or college with requirements equal to the requirements of approved barber schools of this state, or provides an affidavit from the barber board of the state in which he is licensed, that applicant has graduated from said barber school or college of that state, shall be deemed qualified to make application for a license to practice barbering in this state.

Any applicant who is licensed in a foreign country shall furnish the board with an authenticated English translation of his license, applicable licensing law, and other supporting documents. Every applicant for such license, qualified under either of the foregoing provisions, shall file his application in the manner provided by law, on forms prescribed by the director. Each such application shall have attached thereto the certificate of a licensed physician and surgeon that the said applicant is not afflicted with any contagious or infectious disease, and a certificate signed by two reputable citizens living in the community in which the applicant now resides or has recently resided that he is of good moral character. Each application shall be accompanied by two signed photographs of the applicant and a photostatic copy of his license authorizing him to practice barbering as hereinbefore provided, and a certificate of graduation or affidavit from barber board as aforementioned. Every applicant for such license shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which fee shall accompany his application. The director upon the receipt of such application and fee shall notify the applicant of the particular date, city, and place where he is to appear for his examination for a license to practice barbering in this state. [1975 1st ex.s. c 30 § 4; 1967 c 223 § 3; 1957 c 101 § 1; 1951 c 16 § 2; 1949 c 51 § 2; 1937 c 199 § 2; 1923 c 75 § 3; Rem. Supp. 1949 § 8277-3. Prior: 1901 c 172 § 10.]

18.15.050 Examinations—Time and place—Scope—License or permit—Service under licensed barber—Reexamination—Manager-operator licensee eligible for barbering license. Barber examinations shall be held six times in each year in the months of February, April, June, August, October, and December; and on such particular dates, within the said times, and in such particular cities and places as the director of motor vehicles shall determine. Every applicant for a license or permit to practice barbering in this state shall be required to take an examination in each branch as follows: (1) Sanitation as applied to the practice of barbering, (2) sterilization as applied to the practice of barbering, (3) and as to whether he has sufficient knowledge of the common contagious and infectious diseases of the face, skin, and scalp, to avoid spreading thereof in the practice of barbering; (4) and as to whether he has sufficient knowledge of the use of chemicals, creams, lotions, and solutions as applied in the practice of barbering; (5) and in any other portion of the curriculum as required by this law; and such applicant shall be required to demonstrate to the barber examining committee his professional skill and ability in performing the following barber services: (1) Haircutting, (2) shaving, (3) massaging, (4) shampooing, and (5) conditioning his barber tools.

Any applicant, other than one applying under the provisions of RCW 18.15.040, who secures a passing grade in each branch of not less than seventy-five percent in his examination and who demonstrates to the satisfaction of the barber examining committee that he possesses the required professional skill and ability to

properly perform each of the said barber services, not less than sixty-five percent of perfect, and possesses the other particular qualifications provided in this chapter, shall be entitled to receive, and the director shall issue to him, a permit to practice barbering in this state. Every person receiving such permit shall be required to serve one and one-half years (eighteen months) under the direct supervision of a licensed barber. A year shall be construed to mean a period of not less than fifty-two weeks consisting of forty hours per week of service by the permittee. He must then pass an examination not less than seventy-five percent of perfect, and demonstrate to the satisfaction of the barber examining committee that he possesses the required professional skill and ability to properly perform each of the said barber services, not less than seventy-five percent of perfect, and possesses the qualifications required in this chapter, after which the director shall issue to him a license to practice barbering.

Any applicant under the provisions of RCW 18.15.040 who secures a grade in each branch of not less than seventy-five percent in his examination and who demonstrates to the satisfaction of the barber examining committee that he possesses the required professional skill and ability to properly perform each of the said barber services, not less than seventy-five percent of perfect, and possesses the other particular qualifications provided in this chapter, shall be entitled to receive, and the director shall issue to him a license to practice barbering in this state, until the first day of July next following the issuance of such license. Every applicant for such license shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which fee shall accompany his application. The director upon receipt of such application and fee shall notify the applicant of the particular date, city, and place where he is to appear for his examination for a license or permit to practice barbering in this state.

Any unsuccessful applicant for a license or permit to practice barbering in this state shall be entitled to appear at any subsequent barber examination and be reexamined for a license or permit, as the case may be, to practice barbering in this state upon the payment of a reexamination fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and which reexamination fee shall be paid at the time of application for such reexamination, said application and fee to be submitted to the director at least fifteen days prior to an examination date: *Provided*, That an unsuccessful applicant for a permit shall return to an approved school or college for an additional two hundred fifty hours of instruction before he may be reexamined.

Any person who applies for a license or permit to practice barbering under this chapter, and who does not appear for examination at the time, date, and place as notified by the director, shall forfeit application fees, and must reapply with a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which fee shall accompany his new application.

Any person holding a current manager-operator license of this state issued under the provisions of chapter 18.18 RCW shall be deemed qualified to apply to the director to be examined for a license to practice barbering, pursuant to the provisions of this chapter: *Provided*, That any such applicant who fails said examination must then enroll in a licensed barber school of this state and complete a course of instruction of not less than two hundred fifty hours before applying to be reexamined for a barber license. The curriculum for such course of instruction shall be determined by the barber examining committee and approved by the director. [1975 1st ex.s. c 30 § 5; 1973 1st ex.s. c 148 § 2; 1967 c 223 § 4; 1959 c 84 § 4; 1951 c 16 § 3; 1949 c 51 § 4; 1929 c 209 § 3; 1927 c 211 § 5; 1923 c 75 § 6; Rem. Supp. 1949 § 8277-6.]

18.15.060 Annual renewal of license or permit. Every person licensed as a barber or a permit barber shall pay an annual license fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, for a license or permit renewal certificate on or before the thirtieth day of June each year. Failure to pay the annual license or permit renewal fees before delinquency shall work a forfeiture of the license or permit, but the license or permit may be renewed within three years thereafter without examination upon application therefor by the licensee or permittee, and payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended plus all lapsed fees. Should the licensee or permittee allow his license or permit to elapse for more than three years, he must be reexamined as for a new license or permit. [1975 1st ex.s. c 30 § 6; 1973 1st ex.s. c 148 § 4; 1971 ex.s. c 266 § 2; 1967 c 223 § 9; 1957 c 101 § 14; 1929 c 209 § 4; 1927 c 211 § 6; 1923 c 75 § 7; RRS § 8277-7.]

18.15.065 Barber shop location licenses—Fees, renewals, etc. It shall be unlawful for any firm, corporation, or person to operate a barber shop without a shop location license for each barber shop. Application therefor shall be made to the director of motor vehicles. Each application for a license shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

Upon receipt of the application and fee, the director shall issue a shop location license, if the barber shop meets the requirements of this chapter. Each license shall be issued for the shop and persons named in the application. Application for the transfer or assignment of a shop location license shall be upon such form as the director shall prescribe, and application shall be made within ten days of the sale or transfer. Upon the receipt of the application and a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, the director shall assign or transfer the shop location license, if the assignee or transferee and the barber shop meets the requirements of this chapter. If the application for transfer or assignment is not made within ten days, a penalty fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended will be made, prior to issuance of a license.

All licenses issued under this section shall expire on the first day of July next succeeding the date of issue. Each such license shall be renewable annually on or before the expiration date, and the application for renewal shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Failure to obtain a renewal before delinquency shall work a forfeiture of the shop location license, but the license may be reinstated at any time after forfeiture upon the payment of the annual renewal fee, together with a penalty fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, upon satisfactory inspection. [1975 1st ex.s. c 30 § 7; 1973 1st ex.s. c 148 § 5; 1967 c 223 § 10; 1959 c 84 § 3.]

18.15.095 Barber college location licenses—Fees, renewals, etc. It shall be unlawful for any firm, corporation, or person to operate a barber school or college without a license for each location. Application therefor shall be made to the director. Each application for a school location license shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

Upon receipt of the application and fee, the director may issue a location license, if the barber school or college meets the requirements of this chapter. Each license shall be issued for the school or college and persons named in the application and may be transferable, if the transferee meets the requirements of this chapter. Whenever a registered school or barber college is discontinued the person to whom the registration is issued shall notify the director of such action and shall return to the director the certificate of registration of such school or barber college within ten days.

All licenses issued under this section shall expire on the first day of July next succeeding the date of issue. Each such license shall be renewable annually on or before the expiration date, and the application for renewal shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Failure to obtain a renewal before delinquency shall work a forfeiture of the location license, but the license may be reinstated at any time after forfeiture upon the payment of the annual renewal fee, together with a penalty fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 8; 1967 c 223 § 14; 1959 c 84 § 2.]

18.15.097 Instructors—License required—Application—Qualifications—Examination—Renewal—Fees. No person shall engage in teaching or instructing in barber schools or colleges without an instructor's license issued by the director. Each applicant for an instructor's license shall submit an application to the director on such forms as he may prescribe, and must comply with the following qualifications: (1) Each applicant must be at least twenty-five years of age; (2) must be of good health; (3) must be of good moral character; (4) must have had at least five years of experience as a licensed barber of this state in a licensed

barber shop of this state immediately preceding application; (5) must have a current barber license; (6) must have at least a tenth grade education or be capable of proving an equivalent education as determined by the board for vocational education and local schools; (7) take an examination administered by the examining committee covering such subjects as are usually taught in barber schools and colleges in practical and theory work; (8) such applicant shall be required to demonstrate to the barber examining committee his professional skill and ability in performing all of the barbering services as required by this chapter. Applications for an instructor's license must be made before becoming engaged in teaching or instructing, but applicant may be permitted to engage in teaching or instructing for a period of not more than sixty days, at which time he must present himself for examination. The fee for such license and examination shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Each license shall be renewed on or before July 1st; the renewal fee shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended. If application for a renewal is not received on or before July 1st, the renewal fee shall include a penalty fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. The instructor's license shall stand revoked if not used for a period of two years, and an examination as for a new license will be required before a license will be reissued.

Any person engaged as an instructor or manager-instructor on effective date of this chapter, in a barber school or college of this state, shall be issued a license under this section upon payment of the fees herein prescribed. [1975 1st ex.s. c 30 § 9; 1973 1st ex.s. c 148 § 7; 1967 c 223 § 13.]

18.15.100 Student barbers—Student certificate—Fee—Application for barber's permit. It shall be unlawful for any person to study the practice of barbering in any barber school or barber college authorized under this chapter unless he shall first have obtained and holds a valid student barber certificate issued pursuant to this chapter. Any person of good moral character, free from contagious or infectious disease, at least eighteen years of age, and showing completion of the tenth grade, or has an equivalent education as determined by the director whose determination shall be conclusive, shall be deemed qualified to make an application for and be entitled to obtain a student barber certificate authorizing him to study the practice of barbering in any barber school or barber college in this state. Application therefor shall be made to the director. Each application shall have attached thereto the certificate of a licensed physician and surgeon that the said applicant is not afflicted with any contagious or infectious disease, and a certificate signed by two reputable citizens living in the community in which the applicant now resides or has recently resided, that he is of good moral character. Each application shall be accompanied by two signed photographs of the

applicant. Every such applicant shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which fee shall accompany his application. The director upon the receipt of such application and fee shall issue to each qualified applicant a student barber certificate which shall be valid for one year from the date of its issue, and which shall be subject to one renewal thereafter upon the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended: *Provided*, That any student barber holding (1) a valid student barber certificate, and (2) a graduation certificate from any barber school or barber college authorized under this chapter shall be deemed qualified to make application for a permit to practice barbering in this state. Application therefor shall be made to the director. Each applicant shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended plus an amount equal to the annual renewal fee, which fee shall accompany his application. The director upon the receipt of such application and fee shall notify the applicant of the particular date, city, and place where he is to appear for his examination for a permit to practice barbering in this state. Failure of applicant to appear for said examination will cause a forfeiture of fees. [1975 1st ex.s. c 30 § 10; 1973 1st ex.s. c 148 § 8; 1967 c 223 § 15; 1959 c 84 § 5; 1957 c 101 § 2; 1949 c 51 § 3; 1937 c 199 § 3; 1923 c 75 § 5; 1901 c 172 § 8; Rem. Supp. 1949 § 8277-5.]

18.15.125 Inspections by examining committee—

Fee. The examining committee shall arrange with the director for the employment of one or more inspectors who shall have the same qualifications as a committee member. The secretary of the committee shall have the right to inspect any barber shop or barber school. Any member, agent, or assistant of the committee, when authorized by the committee, may enter any such shop or school during business hours for the purpose of inspection. Every new barber shop, school, or college shall be inspected before being opened for business. If no inspection is made by the committee within fifteen days after receipt by the director of an application for a location license, and all other qualifications for said licenses are met, the director may issue such license and the new shop, school, or college may open for business and remain open unless, upon inspection, the shop, school, or college fails to meet the standards set forth in this chapter or in the rules and regulations of the committee. The fee of such original inspection shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, said fee to accompany application. [1975 1st ex.s. c 30 § 11; 1967 c 223 § 18; 1959 c 84 § 7; 1957 c 101 § 13.]

18.15.220 Men's hairstyling—Certificate—

Fee—Examination—Limitation. Any person duly licensed as a barber in this state, and who has satisfactorily completed a course of instruction in the practice of men's hairstyling as approved by the barber examining committee, shall be entitled to make application to be examined for a Washington state men's hairstyling

certificate. The fee for such examination and certificate shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended; and the application and fee shall be submitted to the director at least fifteen days prior to an examination date. Any applicant for a certificate under this chapter who secures a grade in each branch of not less than seventy-five percent in his examination and who demonstrates to the satisfaction of the examining committee that he possesses the required professional skill and ability to properly perform each of the said men's hairstyling services, shall be entitled to receive, and the director shall issue to him an official Washington state men's hairstyling certificate, recognizing him as a certified men's hairstylist, and when accompanied by a current barber license of this state, shall entitle him to practice men's hairstyling.

Provided, That persons engaged in the practice of men's hairstyling under this chapter are authorized to perform body waving and permanent waving to the extent necessary to style or arrange the hair on male patrons, but persons engaged in the practice of men's hairstyling under this chapter are not authorized to otherwise engage in the practice of cosmetology unless such person is licensed under chapter 18.18 RCW. [1975 1st ex.s. c 30 § 12; 1973 1st ex.s. c 148 § 12.]

Chapter 18.18 COSMETOLOGY

Sections

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| 18.18.090 | Applications—Fees. |
| 18.18.120 | Exemption from examination—Licensed by another state or country—Fee. |
| 18.18.140 | Licenses—Renewal—Fees. |

18.18.090 Applications—Fees. Each application for student enrollment, manicurist, operator, instructor operator, manager operator, shop, or school shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Any applicant who fails to pass the examination may take the next succeeding examination with payment of an additional fee determined by the director as provided in RCW 43.24.085. [1975 1st ex.s. c 30 § 13; 1973 1st ex.s. c 148 § 23; 1965 ex.s. c 3 § 6; 1959 c 324 § 4; 1955 c 313 § 3; 1951 c 180 § 5. Prior: (i) 1937 c 215 § 10(a); RRS § 8278-10(a). (ii) 1937 c 215 § 12(h); RRS § 8276-12(h).]

18.18.120 Exemption from examination—Licensed by another state or country—Fee. Any person who has been licensed by proper authority of any state or territory or possession of the United States or any country may be issued a license without examination, provided the applicant's qualifications are substantially equal to the requirements of this chapter. Each application for a license under this section shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 14; 1965 ex.s. c 3 § 10; 1951 c 180 § 6; 1937 c 215 § 14. Prior: 1927 c 281 § 13.]

18.18.140 Licenses—Renewal—Fees. Operator, manicurist, instructor operator, manager operator, shop, or school licenses may be renewed from year to year upon the payment on or before the first day of each July following their issuance, of a renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

A certificate of health is required with an application for an original license, one must also be filed with a renewal application.

Any manicurist, operator, manager operator, or instructor operator whose license has lapsed may have the same renewed upon payment of all fees which the applicant would have been required to pay to keep such license in effect, and an additional fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended for each lapsed year: *Provided*, That any person whose license has lapsed for more than three years shall be reexamined, as in the case of any applicant for an original license. [1975 1st ex.s. c 30 § 15; 1973 1st ex.s. c 148 § 27; 1971 ex.s. c 266 § 3; 1965 ex.s. c 3 § 11; 1959 c 324 § 5; 1955 c 313 § 6; 1951 c 180 § 7. Prior: (i) 1937 c 215 § 10(b); RRS § 8278-10(b). (ii) 1937 c 215 § 11; RRS § 8278-11.]

Chapter 18.20 BOARDING HOMES

Sections

18.20.160 Persons requiring medical or nursing care.

18.20.160 Persons requiring medical or nursing care. No person operating a boarding home licensed under this chapter shall admit to or retain in the boarding home any aged person requiring nursing or medical care of a type provided by institutions licensed under chapters 18.51, 70.41 or 71.12 RCW, except that when registered nurses are available from a visiting nurse service or home health agency or from an adjacent or nearby skilled nursing facility or one located in the facility, and upon a doctor's order that a supervised medication service is needed, it may be provided. Such medication service shall be provided only to ambulatory boarders who otherwise meet all requirements for residency in a boarding home. [1975 1st ex.s. c 43 § 1; 1957 c 253 § 16.]

Chapter 18.22 PODIATRY

Sections

18.22.060 Application fee—Reexamination.
18.22.081 License—Reciprocity with other states.
18.22.120 License—Annual renewal—Fee.

Actions for negligence against, evidence and proof required to prevail: RCW 4.24.290.

18.22.060 Application fee—Reexamination. Every applicant for a license to practice podiatry shall pay to the state treasurer a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

An applicant who fails to pass an examination satisfactorily after the expiration of six months from the date of the examination at which he failed, is entitled to a reexamination at a meeting called for the examination of applicants, upon the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended for each reexamination. [1975 1st ex.s. c 30 § 16; 1973 c 77 § 6; 1965 c 97 § 1; 1957 c 52 § 14. Prior: (i) 1921 c 120 § 5; 1917 c 38 § 9; RRS § 10082. (ii) 1921 c 120 § 4; 1917 c 38 § 7; RRS § 10080.]

18.22.081 License—Reciprocity with other states. Any applicant who has been examined and licensed under the laws of another state, which through a reciprocity provision in its laws, similarly accredits the holders of certificates from the proper authorities of this state to the full privileges of practice within its borders or an applicant who has satisfactorily passed examinations given by the national board of podiatry examiners, may, in the discretion of the examining committee be granted a license without examination on the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the state treasurer: *Provided*, That he has not previously failed to pass an examination held in this state. If the applicant was licensed in another state, he must file with the director a copy of his license certified by the proper authorities of the issuing state to be a full and true copy thereof, and must show that the standards, eligibility requirements, and examinations of that state are at least equal in all respects to those of this state. [1975 1st ex.s. c 30 § 17; 1973 c 77 § 8; 1965 c 97 § 3.]

18.22.120 License—Annual renewal—Fee. Every person practicing podiatry must renew his license each year and pay a renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

Any podiatry license that has been allowed to lapse may be renewed by presentation of a new character certificate as required for examination, together with the payment of the annual license fee. [1975 1st ex.s. c 30 § 18; 1973 c 77 § 10; 1971 ex.s. c 266 § 4; 1965 c 97 § 2; 1955 c 149 § 6. Prior: (i) 1921 c 120 § 5, part; 1917 c 38 § 9, part; RRS § 10082, part. (ii) 1921 c 120 § 9; RRS § 10096.]

Chapter 18.25 CHIROPRACTIC

Sections

18.25.020 Applications—Qualifications—Fees.
18.25.040 Reciprocal licenses.
18.25.050 Revocation or refusal of licenses—Hearing—Restoration.
18.25.070 Annual renewal of license—Attendance at approved symposiums required—Fees—Forfeiture—Penalties—Reexamination.

Actions for negligence against, evidence and proof required to prevail: RCW 4.24.290.

18.25.020 Applications—Qualifications—Fees. (1) Any person not now licensed to practice chiropractic in this state and who desires to practice chiropractic

in this state, before it shall be lawful for him to do so, shall make application therefor to the director, upon such form and in such manner as may be adopted and directed by the director. Each applicant who matriculates after January 1, 1975, shall have completed not less than one-half of the requirements for a baccalaureate degree at an accredited and approved college or university and shall be a graduate of a chiropractic school or college accredited and approved by the board of chiropractic examiners and shall show satisfactory evidence of completion by each applicant of a resident course of study of not less than four thousand classroom hours of instruction in such school or college. Applications shall be in writing and shall be signed by the applicant in his own handwriting and shall be sworn to before some officer authorized to administer oaths, and shall recite the history of the applicant as to his educational advantages, his experience in matters pertaining to a knowledge of the care of the sick, how long he has studied chiropractic, under what teachers, what collateral branches, if any, he has studied, the length of time he has engaged in clinical practice; accompanying the same by reference therein, with any proof thereof in the shape of diplomas, certificates, and shall accompany said application with satisfactory evidence of good character and reputation.

(2) There shall be paid to the director by each applicant for a license, a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended which shall accompany application and a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which shall be paid upon issuance of license. Like fees shall be paid for any subsequent examination and application. [1975 1st ex.s. c 30 § 19; 1974 ex.s. c 97 § 9; 1959 c 53 § 3; 1919 c 5 § 5; RRS § 10100.]

Severability—1974 ex.s. c 97: See note following RCW 18.25.120.

18.25.040 Reciprocal licenses. Persons licensed to practice chiropractic under the laws of any other state having equal requirements of this chapter, may, in the discretion of the board of chiropractic examiners, and after examination by the board in principles of chiropractic, x-ray, and adjusting, as taught by chiropractic schools and colleges, be issued a license to practice in this state without further examination, upon payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 20; 1971 ex.s. c 227 § 6; 1919 c 5 § 14; RRS § 10108.]

18.25.050 Revocation or refusal of licenses—Hearing—Restoration. (1) The director may refuse to grant or may revoke a license to practice chiropractic in this state or may cause a licentiate's name to be removed from the records in the office of the county clerk of any county in this state upon any of the following grounds, to wit: The employment of fraud or deception in applying for a license or in passing an examination provided for in this chapter; the practice of chiropractic under a false or assumed name, or the impersonation of

another practitioner of like or different name; the conviction of a crime involving moral turpitude; habitual intemperance in the use of ardent spirits, controlled substances, or stimulants to such an extent as to incapacitate him or her for the performance of his or her professional duties; exploiting or advertising through the press, or by the use of handbills, circulars, or other periodicals, other than professional cards, giving only name, address, profession, office hours, and telephone connections. Any person who is a licentiate, or who is an applicant for a license to practice chiropractic against whom any of the foregoing grounds for revoking or refusing a license, is presented to said director with a view of having the director revoke or refuse to grant a license, shall be furnished with a copy of the complaint, and shall have a hearing before said director in person or by attorney, and witnesses may be examined by said director respecting the guilt or innocence of said accused.

(2) Said director may at any time within two years of the refusal or revocation or cancellation of registration under this section, issue a new license or grant a license to the person affected, restoring him to, or conferring upon him all the rights and privileges of, and pertaining to the practice of chiropractic as defined and regulated by this chapter. Any person to whom such have been restored shall pay to the director a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended upon issuance of a new license. [1975 1st ex.s. c 30 § 21; 1919 c 5 § 8; RRS § 10103.]

18.25.070 Annual renewal of license—Attendance at approved symposiums required—Fees—Forfeiture—Penalties—Reexamination. Every person practicing chiropractic shall, as a prerequisite to annual renewal of license, submit to the director at the time of application therefor, satisfactory proof showing attendance during the preceding year, at one or more chiropractic symposiums which are recognized and approved by the board of chiropractic examiners: *Provided*, That the board may, for good cause shown, waive said attendance.

(1) Symposiums approved, by the board, for licensees practicing or residing within the state of Washington are those sponsored or conducted by the Washington Chiropractor's Association, the Chiropractic Society of Washington, the American Chiropractic Association, or The International Chiropractic Association, or an approved chiropractic college and which devote themselves to lectures or demonstrations concerning matters which are recognized in the state of Washington chiropractic licensing laws.

(2) Symposiums approved, by the board, for licensees practicing and residing outside the state are those sponsored or conducted by an approved chiropractic college or a recognized chiropractic organization which is representative of the chiropractors of a state, a territory, a province, or a country.

(3) To be eligible for approval, a symposium shall:

(a) Be sponsored by an approved chiropractic college or a recognized chiropractic organization which is representative of the chiropractors of a state, a territory, a province, or a country; and

(b) Extend over a period of at least two days, and offer an education program consisting of at least eight hours; and

(c) Include instruction by at least two outstanding chiropractic educators.

Every person practicing chiropractic within this state shall pay on or before the first day of September of each year, after a license is issued to him as herein provided, to said director a renewal license fee to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended. The director shall, thirty days or more before September first, of each year mail to all chiropractors in the state a notice of the fact that the renewal fee will be due on or before the first of September. Nothing in this chapter shall be construed so as to require that the receipts shall be recorded as original licenses are required to be recorded.

The failure of any licensed chiropractor to pay his annual license renewal fee by the first day of October following the date on which the fee was due shall work a forfeiture of his license. It shall not be reinstated except upon written application and the payment of a penalty to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, together with all annual license renewal fees delinquent at the time of the forfeiture, and those for each year thereafter up to the time of reinstatement. Should the licentiate allow his license to elapse for more than three years, he must be reexamined as for a new license. [1975 1st ex.s. c 30 § 22; 1974 ex.s. c 97 § 11; 1971 ex.s. c 266 § 5; 1959 c 53 § 5; 1919 c 5 § 10; RRS § 10105.]

Severability—1974 ex.s. c 97: See note following RCW 18.25.120.

Chapter 18.26

CHIROPRACTIC DISCIPLINARY BOARD

Sections

18.26.030	"Unprofessional conduct".
18.26.037	Mental or physical examination of chiropractor—Authority of board—Admissibility—Limitation.
18.26.110	Powers and duties.
18.26.120	Complaints—Hearing committee.
18.26.130	Specification of charges.
18.26.160	Report of hearing.
18.26.170	Hearing before full board.
18.26.180	Basis for board's determination.
18.26.260	Repealed.
18.26.270	Appeal from decision of board—Appeal procedure.

18.26.030 "Unprofessional conduct". The term "unprofessional conduct" as used in this chapter and chapter 18.25 RCW shall mean the following items or any one or combination thereof:

(1) Conviction in any court of any offense involving moral turpitude, in which case the record of such conviction shall be conclusive evidence;

(2) Fraud or deceit in the obtaining of a license to practice chiropractic;

(3) All advertising of chiropractic practice or business, other than professional cards, telephone listings,

window and street signs, announcements of office openings or change in locations, as regulated by the board: *Provided*, That nothing in this section shall prohibit public relations material which is distributed in a licensee's office or directly to a bona fide patient of a licensee: *Provided further*, That any such public relations material does not have a tendency to deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public morals or safety;

(4) The impersonation of another licensed practitioner;

(5) Habitual intemperance;

(6) The wilful betrayal of a professional secret;

(7) Acts of gross misconduct in the practice of the profession;

(8) Aiding or abetting an unlicensed person to practice chiropractic;

(9) A declaration of mental incompetency by a court of competent jurisdiction;

(10) Failing to differentiate chiropractic care from any and all other methods of healing at all times;

(11) Practicing contrary to laws regulating the practice of chiropractic;

(12) Unprofessional conduct as defined in chapter 19.68 RCW;

(13) Violation of any ethical standard as established by the board;

(14) Suspension or revocation of license to practice chiropractic by competent authority in any state or foreign jurisdiction;

(15) Incompetency to practice chiropractic by reason of illness, drunkenness, excessive use of controlled substances, chemicals, or any other type of material or as a result of any mental or physical condition. [1975 1st ex.s. c 39 § 1; 1974 ex.s. c 97 § 12; 1967 c 171 § 3.]

Severability—1975 1st ex.s. c 39: "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." [1975 1st ex.s. c 39 § 10.]

Severability—1974 ex.s. c 97: See note following RCW 18.25.120.
Application of RCW 18.26.030(12): RCW 18.26.310.

18.26.037 Mental or physical examination of chiropractor—Authority of board—Admissibility—Limitation. In enforcing any provision of *this 1975 amendatory act relating to the competency of a chiropractor to practice chiropractic, the board shall, upon probable cause, have authority to compel a chiropractor to submit to a mental or physical examination. Failure of a chiropractor to submit to such examination when directed shall constitute an admission of the allegations against him unless the failure was due to circumstances beyond his control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence: *Provided, however*, That upon request a chiropractor may obtain an independent mental or physical examination by a licensed physician of his choice, and the results of such examination shall also be considered by the board.

For the purposes of this section, every chiropractor licensed under this chapter who shall accept the privilege to practice chiropractic in this state shall by so practicing or by the making and filing of annual registration to practice chiropractic in this state, be deemed to have given his consent to submit to a mental or physical examination when directed in writing by the board and, further, to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication.

In any proceeding under this section, neither the record of proceedings nor the orders entered by the board shall be used against a chiropractor in any other proceeding. [1975 1st ex.s. c 39 § 9.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 39] consist of this section, amendments to RCW 18.26.030, 18.26.110, 18.26.120, 18.26.130, 18.26.160, 18.26.170, 18.26.180 and 18.26.270 and the repeal of RCW 18.26.260.

Severability—1975 1st ex.s. c 39: See note following RCW 18.26.030.

18.26.110 Powers and duties. The board shall have the following powers and duties:

(1) To adopt, amend and rescind such rules and regulations as it deems necessary to carry out the provisions of this chapter;

(2) To establish and promulgate by rules and regulations ethical standards for the chiropractic profession including, but not limited to, regulations relating to advertising, or excessive charging for professional services;

(3) To investigate all complaints and charges of unprofessional conduct against any holder of a license to practice chiropractic and to hold hearings to determine whether such charges are substantiated or unsubstantiated;

(4) To employ necessary stenographic or clerical help;

(5) To issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter;

(6) To take or cause depositions to be taken as needed in any investigation, hearing, or proceeding. [1975 1st ex.s. c 39 § 2; 1967 c 171 § 11.]

Severability—1975 1st ex.s. c 39: See note following RCW 18.26.030.

18.26.120 Complaints—Hearing committee. Any person, firm, corporation, or public officer may submit a written complaint to the secretary charging the holder of a license to practice chiropractic with unprofessional conduct, specifying the grounds therefor. If the board determines that such complaint merits consideration, or if the board shall have reason to believe, without a formal complaint, that any holder of a license has been guilty of unprofessional conduct, the chairman may designate three members to serve as a committee to hear and report upon such charges, or the board may sit as a whole to hear such charges, or the board may designate a hearing officer to hear and report to the board upon such charges. [1975 1st ex.s. c 39 § 3; 1967 c 171 § 12.]

Severability—1975 1st ex.s. c 39: See note following RCW 18.26.030.

18.26.130 Specification of charges. Prior to any hearing being conducted, the secretary or the attorney for the board shall prepare a specification of the charge or charges of unprofessional conduct made against a license holder, a copy of which shall be served upon the accused, together with a notice of the hearing. [1975 1st ex.s. c 39 § 4; 1967 c 171 § 13.]

Severability—1975 1st ex.s. c 39: See note following RCW 18.26.030.

18.26.160 Report of hearing. If a hearing officer or hearing committee has been appointed, within a reasonable time after holding a hearing, the hearing committee or hearing officer shall make a written report of its findings of fact and its recommendations, and the same shall be forthwith transmitted to the secretary, with a transcript of the evidence. [1975 1st ex.s. c 39 § 5; 1967 c 171 § 16.]

Severability—1975 1st ex.s. c 39: See note following RCW 18.26.030.

18.26.170 Hearing before full board. If a hearing officer or hearing committee has been appointed, and the board deems it necessary, the board may, after further notice to the accused, take further testimony at a second hearing before the full board. [1975 1st ex.s. c 39 § 6; 1967 c 171 § 17.]

Severability—1975 1st ex.s. c 39: See note following RCW 18.26.030.

18.26.180 Basis for board's determination. In any event, whether the board makes its determination on the findings of the board acting as a whole, or on the findings of the hearing officer or the hearing committee, or on the findings of the hearing officer or the hearing committee as supplemented by a second hearing before the board, the board shall determine the charge or charges upon the merits on the basis of the evidence in the record before it. [1975 1st ex.s. c 39 § 7; 1967 c 171 § 18.]

Severability—1975 1st ex.s. c 39: See note following RCW 18.26.030.

18.26.260 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.26.270 Appeal from decision of board—Appeal procedure. The procedure governing appeals to the superior court under chapter 34.04 RCW, the Administrative Procedure Act, shall govern in matters of appeal from a decision of the board. [1975 1st ex.s. c 39 § 8; 1967 c 171 § 27.]

Severability—1975 1st ex.s. c 39: See note following RCW 18.26.030.

Chapter 18.28 DEBT ADJUSTING

Sections

18.28.030 Application for license, form, contents—Investigation fees—Licensing fees—Bond—Qualifications—Forms to be furnished.

18.28.030 Application for license, form, contents—Investigation fees—Licensing fees—Bond—Qualifications—Forms to be furnished. An application for a license shall be in writing, under oath, and in the form prescribed by the director. The application shall contain such relevant information as the director may require, but in all cases shall contain the name and residential and business addresses of each individual applicant, and of each member when the applicant is a partnership or association, and of each director and officer when the applicant is a corporation.

Except as provided hereinafter in this section the applicant shall pay an investigation fee and a licensing fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended: *Provided*, That a branch office of a licensed debt adjusting agency need not pay an investigation fee but only the licensing fee. If a license is not issued in response to the application, the director shall return the licensing fee to the applicant. An annual license fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, shall be paid to the director by January 1st of each year. If the annual license fee is not paid by January 1st, the licensee shall be assessed a penalty for late payment determined by the director as provided in RCW 43.24.085 as now or hereafter amended. And if the fee and penalty are not paid by January 31st, reapplication for a new license will be necessary, which may include taking any examination prescribed by the director.

The applicant shall file a surety bond with the director or in lieu thereof the applicant may file with the director a cash deposit or other negotiable security acceptable to the director and under conditions set forth in RCW 18.28.040: *Provided*, That each branch office of a debt adjusting agency shall be required to be bonded as provided herein, but no bond will be required of an individual applicant while he is employed by a bonded debt adjusting agency or branch thereof.

The applicant shall furnish the director with such proof as the director may reasonably require to establish the qualifications set forth in RCW 18.28.060.

If the applicant is an individual person making an original license application he shall pay an examination fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

If the applicant is applying for a debt adjusting agency license it shall furnish the director with complete forms of all contracts and assignments designed for execution by debtors making any assignments to or placing any property with the applicant for the purpose of paying the creditors of such debtors, and complete forms of all contracts and agreements designed for execution by creditors to whom payments are made by the applicant. Only such forms furnished the director and

not disapproved by him shall be used by a debt adjusting agency licensee. [1975 1st ex.s. c 30 § 23; 1971 ex.s. c 266 § 6; 1967 c 201 § 3.]

Chapter 18.29 DENTAL HYGIENIST

Sections

18.29.020 Applications—Qualifications—Fee.
18.29.040 Reciprocal licenses—Fees.
18.29.070 License renewal—Fee—Display.

18.29.020 Applications—Qualifications—Fee.

Any citizen of this state of good moral character who shall have attained the age of eighteen years may file his application for license as a dental hygienist in the manner provided by law on forms furnished by the director of motor vehicles and shall submit with said application proof of said applicant's graduation from a training school for dental hygienists. Said application shall be signed and sworn to by said applicant. Each applicant shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended which shall accompany his application. [1975 1st ex.s. c 30 § 24; 1971 ex.s. c 292 § 21; 1969 c 47 § 1; 1923 c 16 § 28; RRS § 10030-28.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

18.29.040 Reciprocal licenses—Fees. Applicants licensed as dental hygienists under the laws of other states whose requirements are equal to those of this state and who have been engaged in the lawful practice of dental hygiene for a period of not less than three years in such state may, upon the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, be granted licenses as dental hygienists in this state without examination: *Provided, however*, That the privileges of this section shall be extended only to those states which extend to this state the same privilege. [1975 1st ex.s. c 30 § 25; 1969 c 47 § 3; 1923 c 16 § 33; RRS § 10030-33.]

18.29.070 License renewal—Fee—Display. Every person licensed as a dental hygienist shall pay on or before the first day of October of each year after a license is issued to him a license renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended and the license renewal certificate which shall be thereupon issued by the director of motor vehicles shall be displayed with the license of said licensee. [1975 1st ex.s. c 30 § 26; 1969 c 47 § 5; 1923 c 16 § 32; RRS § 10030-32.]

Chapter 18.32 DENTISTRY

Sections

18.32.035 Board of dental examiners—Creation—Membership—Terms—Powers—Vacancies.
18.32.110 Application fee—Investigation fee.
18.32.120 Examination requirements—Fee.
18.32.170 Licenses—Duplicate—Fee.

- 18.32.180 Licenses—Annual renewal fee—Forfeiture and reinstatement.
 18.32.200 Licenses—Registration in counties—Failure—Penalty.
 18.32.210 Reciprocity with other states—Incoming dentists.
 18.32.225 Certificate available for dentists going out-of-state—Fee for issuance.

18.32.035 Board of dental examiners—Creation—Membership—Terms—Powers—Vacancies. There shall be a board of dental examiners consisting of nine practicing dentists, to be known as the Washington state board of dental examiners.

The members shall be appointed by the governor in the manner hereinafter set forth and at the time of their appointment upon said board must be actual residents of the state in active practice of dentistry or dental surgery as hereinafter defined and must have been for a period of five years or more legally licensed to practice dentistry or dental surgery in this state: *Provided, however,* That no person shall be eligible to appointment to said board who is in any way connected with or interested in any dental college or dental department of any institution of learning. Those members serving on the board on March 27, 1975 shall continue to hold office for the following terms: The terms of the two board members appointed in 1972 shall expire July 1, 1975; the terms of the two board members appointed in 1973 shall expire July 1, 1976, and the term of the board member appointed in 1974 shall expire July 1, 1977. Six members shall be appointed to the board and shall take office July 1, 1975: two members to serve a term of three years, two members to serve a term of four years and two members to serve a term of five years. The term of office of each such member shall be designated by the governor in his appointment. Thereafter, all members shall be appointed to the board to serve for terms of five years from July 1 of the year in which they are appointed.

In case of a vacancy occurring on said board, such vacancy shall be filled by the governor as herein provided for the remainder of the term of the vacancy.

The board shall have the power to employ competent persons on a temporary basis to assist in conducting examinations for licensure. [1975 c 49 § 1; 1953 c 93 § 2; 1941 c 92 § 1; 1935 c 112 § 2; Rem. Supp. 1941 § 10031-2. Formerly RCW 43.68.010.]

18.32.110 Application fee—Investigation fee. Except as otherwise provided in RCW 18.32.210, as now or hereafter amended each applicant shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which shall accompany his application: *Provided,* That applicants not licensed in another state and not residents of this state for at least six consecutive months shall pay an additional investigation fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 27; 1969 c 49 § 1; 1957 c 52 § 29. Prior: 1941 c 92 § 2, part; 1935 c 112 § 4; Rem. Supp. 1941 § 10031-4, part.]

18.32.120 Examination requirements—Fee. When the application and the accompanying proof are found satisfactory, the director shall notify the applicant to appear before the board at a time and place to be fixed by the director, which time shall be not less than sixty days after the receipt of such application by the director.

Examination shall be made in writing in all theoretic subjects. Both theoretic and practical examinations shall be of a character to give a fair test of the qualifications of the applicant to practice dentistry or dental surgery.

The examination papers, and all grading thereon, and the grading of the practical work, shall be deemed public documents, and preserved for a period of not less than three years after the board has made and published its decisions thereon. All examinations shall be conducted by the board under fair and wholly impartial methods.

Any applicant who fails to make the required grade in his first examination is entitled to take as many subsequent examinations as he desires upon the prepayment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended for each subsequent examination. At least two examinations shall be given in each calendar year. [1975 1st ex.s. c 30 § 28; 1969 c 49 § 2; 1957 c 52 § 30; 1953 c 93 § 5. Prior: 1941 c 92 § 2, part; 1935 c 112 § 4, part; Rem. Supp. 1941 § 10031-4, part.]

18.32.170 Licenses—Duplicate—Fee. A fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be charged for every duplicate license issued by the director. [1975 1st ex.s. c 30 § 29; 1957 c 52 § 25. Prior: 1935 c 112 § 11, part; RRS § 10031-11, part.]

18.32.180 Licenses—Annual renewal fee—Forfeiture and reinstatement. Every person granted a license under this chapter shall pay to the director a license renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended for the year commencing with the first day of October next following the issuance of his license, and annually thereafter. Payment must be made within thirty days following the commencement of the year for which the same accrues. The license renewal certificate issued by the director shall be indispensable evidence that the same has been made.

The failure of any licensed dentist to pay his annual license renewal fee by the first day of November following the date on which the fee was due shall work a forfeiture of his license. It shall not be reinstated except upon written application and the payment of a penalty determined by the director as provided in RCW 43.24.085 as now or hereafter amended, together with all annual license renewal fees delinquent at the time of the forfeiture, and those for each year thereafter up to the time of reinstatement. [1975 1st ex.s. c 30 § 30; 1969 c 49 § 3; 1951 c 130 § 4; 1935 c 112 § 24; RRS § 10031-24.]

18.32.200 Licenses—Registration in counties—Failure—Penalty. Any failure, neglect, or refusal on the part of any person obtaining a license to practice dentistry from the said director, to register such license with the county auditor of some county in this state, within ninety days from the date of issue of the same or to notify the director of any change of address within ninety days thereof, as above directed, shall work a forfeiture of such license, and no license when once forfeited shall be restored, except upon payment to the said director of the sum determined by the director as provided in RCW 43.24.085 as now or hereafter amended for such neglect, failure, or refusal to register such license, and the surrender of forfeited license. [1975 1st ex.s. c 30 § 31; 1935 c 112 § 10; RRS § 10031-10. Prior: 1923 c 16 § 16.]

18.32.210 Reciprocity with other states—Incoming dentists. Any dentist who has been lawfully licensed to practice in another state or territory which has and maintains a standard for the practice of dentistry or dental surgery which in the opinion of the board is equal to that at the time maintained in this state, and who has been lawfully and continuously engaged in the practice of dentistry for five years or more immediately before filing his application to practice in this state and who shall deposit in person with the director a duly attested certificate from the examining board of the state or territory in which he is registered, certifying to the fact of his registration and of his being a person of good moral character and of professional attainments, may, upon the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended and after satisfactory practical examination demonstrating his proficiency, be granted a license to practice dentistry in this state, without being required to take an examination in theory: *Provided, however,* That no license shall be issued to any such applicant, unless the state or territory from which such certificate has been granted to such applicant shall have extended a like privilege to engage in the practice of dentistry within its own borders to dentists heretofore and hereafter licensed by this state, and removing to such other state: *And provided further,* That the Washington state board of dental examiners shall have power to enter into reciprocal relations with similar boards of other states whose laws are practically identical with the provisions of this chapter. [1975 1st ex.s. c 30 § 32; 1969 c 49 § 4; 1935 c 112 § 13; RRS § 10031-13.]

18.32.225 Certificate available for dentists going out-of-state—Fee for issuance. The fee for issuing a certificate to a legal practitioner of this state under RCW 18.32.220 shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended and in each case the fee shall be paid to the director before the certificate shall be issued. [1975 1st ex.s. c 30 § 33; 1935 c 112 § 15; RRS § 10031-15. Formerly RCW 18.32.220, part.]

Chapter 18.34 DISPENSING OPTICIANS

Sections	
18.34.070	Applicants—Eligibility for examination—Fee.
18.34.120	Annual renewal—Fee—Reinstatement—Penalty.

18.34.070 Applicants—Eligibility for examination—Fee. Any applicant for a license shall be examined if he pays an examination fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended and certifies under oath that:

- (1) He is eighteen years or more of age; and
- (2) He has graduated from an accredited high school; and
- (3) He is a citizen of the United States or has declared his intention of becoming such citizen in accordance with law; and
- (4) He is of good moral character; and
- (5) He has either:
 - (a) Had at least three years of apprenticeship training; or
 - (b) Successfully completed a prescribed course in opticianry in a college or university approved by the director; or
 - (c) Been principally engaged in practicing as a dispensing optician not in the state of Washington for five years. [1975 1st ex.s. c 30 § 34; 1971 ex.s. c 292 § 22; 1957 c 43 § 7.]

Severability—1971 ex.s. c 292: See note following RCW 26.28.010.

18.34.120 Annual renewal—Fee—Reinstatement—Penalty. Each licensee hereunder shall pay an annual renewal registration fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, on or before the first day of July of each year, and thereupon the license of such person shall be renewed for a period of one year. Any failure to pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the director and payment of a penalty determined by the director as provided in RCW 43.24.085 as now or hereafter amended, together with all delinquent annual license renewal fees. [1975 1st ex.s. c 30 § 35; 1957 c 43 § 12.]

Chapter 18.35 HEARING AIDS

Sections	
18.35.040	Applicants—Qualifications—Fee—Requirements.
18.35.060	Trainee license—Qualifications—Requirements—Fee—Contents—Authority of trainee—Expiration—Reissuance.
18.35.080	License—Issuance—Fee—Duration.

18.35.040 Applicants—Qualifications—Fee—Requirements. An applicant for license shall be at least eighteen years of age, shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and shall show to the satisfaction of the department that he is free of any infectious or contagious disease which would involve undue risk to the

public. An applicant shall not be issued a license under the provisions of this chapter unless he:

(1) Satisfactorily completes the examination required by this chapter; or

(2) Has been engaged in the fitting and dispensing of hearing aids in the state of Washington for a period of six months immediately prior to July 16, 1973: *Provided*, That any person receiving a license under this section shall be required to complete and pass the examination by the date on which the names of those persons who have passed the third examination subsequent to July 16, 1973, are disclosed by the department; or

(3) Holds a current, unsuspended, unrevoked license or certificate from a state or jurisdiction with whom the department has entered into a reciprocal agreement. [1975 1st ex.s. c 30 § 36; 1973 1st ex.s. c 106 § 4.]

18.35.060 Trainee license—Qualifications—Requirements—Fee—Contents—Authority of trainee—Expiration—Reissuance. (1) The department shall issue a trainee license to any applicant who has shown to the satisfaction of the department that:

(a) He is at least eighteen years of age;

(b) He is free of any infectious or contagious disease;

(c) If issued a trainee license, he would be employed and directly supervised in the fitting and dispensing of hearing aids by a person licensed under this chapter in a capacity other than trainee; and

(d) He has paid an application fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, to the department.

The provisions of RCW 18.35.030 and 18.35.110 through 18.35.130 shall apply to any person issued a trainee license. Pursuant to the provisions of this section, a person issued a trainee license may engage in the fitting and dispensing of hearing aids without having first passed the examination provided under this chapter.

(2) The trainee license shall contain the name of the person licensed under this chapter who is employing and supervising the trainee and an acknowledgment executed by such person that he is responsible for all acts of the trainee in connection with the fitting and dispensing of hearing aids.

(3) A trainee may fit and dispense hearing aids, but only if he is under the direction and supervision of a person licensed under this chapter in a capacity other than trainee.

(4) The trainee license shall expire one year from the date of its issuance except that at the discretion of the department on recommendation of the council the license may be reissued for one additional year only.

(5) No person licensed under this chapter may assume the responsibility for more than three trainees at any one time, unless approved in writing by the department. [1975 1st ex.s. c 30 § 37; 1973 1st ex.s. c 106 § 6.]

18.35.080 License—Issuance—Fee—Duration. The department shall license each applicant, without discrimination, who satisfactorily completes the

required examination and, upon payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the department, shall issue to the applicant a license. The license shall be effective until December 31st of the year in which it is issued. [1975 1st ex.s. c 30 § 38; 1973 1st ex.s. c 106 § 8.]

Chapter 18.36 DRUGLESS HEALING

Sections

18.36.040	License required—Fee—Qualifications—Examinations—Refusals and cancellations—Appeals.
18.36.050	Examination regulations—Fee—Credits—Conduct of examinations.
18.36.115	License renewal fee—Penalty.

18.36.040 License required—Fee—Qualifications—Examinations—Refusals and cancellations—Appeals. Only persons desiring to practice drugless therapeutics in this state shall apply to said director for a license and pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which sum in no case shall be refunded. If at a time appointed, or at the next regular examination, he or she shall prove he or she has completed a residence course of three entire sessions of thirty-six weeks each at a chartered drugless school, the entrance requirements of which was a high school education, or its equivalent and shall pass an examination in the following subjects, to wit: anatomy, physiology, hygiene, symptomatology, urinalysis, dietetics, hydrotherapy, radiography, electrotherapy, gynecology, obstetrics, psychology, mechanical and manual manipulation, they shall be granted a license by said director, or if the school attendance of said applicant was prior to the passage of RCW 18.36.010 through 18.36.165 a diploma from a chartered drugless school, the entrance requirements of which was a common school education or its equivalent, and two years continuous practice in this state shall suffice; or if the applicant has no diploma but has been in continuous practice in any of the drugless systems herein mentioned for the past four years, two years of which shall have been in continuous practice in one place in this state, he or she shall be allowed to practice: *Provided*, said applicant shall take an examination on the following subjects: anatomy, physiology, hygiene, symptomatology, mechanical and manual manipulation. After such examination the director shall grant the applicant a license to practice drugless therapeutics in the state of Washington. The examinations shall be both scientific and practical and thoroughly test the fitness of the candidate. All answers to questions peculiar to any school of therapeutics shall be scrutinized and their sufficiency passed upon by the director, but the following subjects, to wit: anatomy, physiology, hygiene, urinalysis, and gynecology, shall be construed to be in common with all systems herein mentioned, and each candidate shall be examined in each of said subjects: *Provided*, after 1921, the following subjects shall be construed as common to all systems, to wit: anatomy, physiology, hygiene, urinalysis, symptomatology, hydrotherapy, and

gynecology. The director may refuse to grant a license to, or may revoke the license of any person guilty of unprofessional conduct, subject to the right of appeal within ninety days, to the superior court of the county where the board met when said license was refused, or revocation made. Any license granted without a full and fair compliance with the provisions of RCW 18.36.010 through 18.36.165 may be canceled in any action brought in the name of the state by the prosecuting attorney of the county where the examination was held, or said action may be brought by the attorney general; and if a license is denied an applicant shall have the right to petition the superior court where said examination was held for an order compelling said board to issue said license.

Continuous practice as herein provided shall be construed to apply to drugless physicians who have actually been practicing in this state, even if they have not received a license under the present medical laws. [1975 1st ex.s. c 30 § 39; 1919 c 36 § 3; RRS § 10113. Formerly RCW 18.36.040, 18.36.050, part, 18.36.080, 18.36.090, part, and 18.36.160.]

Examining committee for basic sciences: Chapter 43.74 RCW.

18.36.050 Examination regulations—Fee—Credits—Conduct of examinations. The examination held by the director under RCW 18.36.010 through 18.36.165 shall be conducted in accordance with the following regulations:

(1) Each applicant is required to make an affidavit setting forth his age, place of residence, time and place of each course of lectures, or other work connected with his drugless education and the date of graduation, or length of time in practice. The affidavit must be corroborated by the exhibition of a certificate from the proper officers of the college, showing that the applicant had completed the prescribed course for graduation. No advance standing shall be recognized for work done at other than drugless colleges.

(2) A fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended must accompany the application. This fee is under no consideration to be returned, but if the applicant should fail to secure an average of sixty-five percent, and should be denied a license, such applicant shall, without paying a further fee and without losing his classification under the provisions of RCW 18.36.010 through 18.36.165, be permitted to take another examination any time within two years. Drugless practitioners who hold a diploma from a legally incorporated drugless school who have practiced in this state two years previous to the passing of RCW 18.36.010 through 18.36.165 and those having no diploma but who have been in continuous practice in this state for three years, shall be given a credit of fifteen percent on the general average.

(3) The examination shall be in charge of the director, and the papers of candidates shall be known by numbers which shall be arranged as follows: Envelopes shall be numbered and each containing a blank corresponding to the number, on which blank the applicant

shall write his name and address, and return to the envelope, sealed by the applicant, and delivered to the director. Each candidate shall place on his paper the number given him and the year of graduation.

(4) The director shall examine the papers and place the mark opposite each candidate's number. When the markings are completed, the envelopes containing the names are to be opened and the names placed opposite their respective numbers.

(5) No dishonest methods will be tolerated, and any candidate disregarding these rules shall be debarred from further examination.

(6) Each subject for examination shall be covered by ten questions, and two hours' time shall be allowed for each subject.

(7) No candidate shall be allowed to leave the examination room after the question papers have been distributed, until the questions are answered and delivered to the examiners in charge.

(8) All examinations shall be in English. Within twenty days after a license is granted or refused, the reasons shall be set forth in writing and placed with the papers used in the examination, and all of said examination papers shall be filed with the director within thirty days after said license has been granted or refused. [1975 1st ex.s. c 30 § 40; 1919 c 36 § 11; RRS § 10121. Formerly RCW 18.36.050, 18.36.070 and 18.36.090. FORMER PART OF SECTION: 1919 c 36 § 3, part, now codified in RCW 18.36.040.]

18.36.115 License renewal fee—Penalty. Every person heretofore or hereafter granted a license under this chapter shall pay to the director an annual license renewal fee to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, on or before the first day of July of each year, and thereupon the license of such person shall be renewed for a period of one year. Any failure to register and pay the annual license renewal fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the director, and payment to the state of a penalty fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, together with all delinquent annual license renewal fees. [1975 1st ex.s. c 30 § 41; 1971 ex.s. c 266 § 7; 1953 c 83 § 1.]

Chapter 18.37 ELECTRICIANS

Sections	
18.37.010	Definitions.
18.37.020	Certificate of competency—Required—Business or trade of electrician defined.
18.37.040	Examinations—Eligibility—Rules and regulations.
18.37.110	Repealed.

18.37.010 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meaning:

(1) "Advisory board" means the state advisory board of electricians;

(2) "Department" means the department of labor and industries;

(3) "Director" means director of department of labor and industries;

(4) "Journeyman electrician" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter for the installation of electrical equipment for light, heat, or power. [1975 1st ex.s. c 70 § 1; 1973 1st ex.s. c 206 § 1.]

18.37.020 Certificate of competency—Required—Business or trade of electrician defined. (1) No person shall engage in the business or trade as a journeyman electrician without having a current certificate of competency issued by the department in accordance with the provisions of this chapter.

(2) The business or trade of electrician, as herein used, shall encompass all acts involving installation or maintenance of the distribution of electricity, except as is hereinafter specifically excluded. [1975 1st ex.s. c 70 § 2; 1973 1st ex.s. c 206 § 2.]

18.37.040 Examinations—Eligibility—Rules and regulations. Upon receipt of the application and evidence set forth in RCW 18.37.030, the director shall review the same and make a determination as to whether the applicant is eligible to take an examination for the certificate of competency. To be eligible to take the examination the applicant must have worked under the supervision of a journeyman electrician certified under this law, or have satisfactorily attended for a minimum of two years and successfully completed an accredited vocational or technical school program related to the electrical trade, or shall furnish written evidence that he has had at least four years practical experience in the wiring for the installation of electrical equipment of light, heat, and power. No other requirement for eligibility may be imposed. The director shall establish reasonable rules and regulations for the examinations to be given applicants for certificates of competency. In establishing said rules, regulations, and criteria, the director shall consult with the state advisory board of electricians as established in RCW 18.37.100. Upon determination that the applicant is eligible to take the examination, the director shall so notify him, indicating the time and place for taking the same. [1975 1st ex.s. c 70 § 3; 1973 1st ex.s. c 206 § 4.]

18.37.110 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.39

EMBALMERS—FUNERAL DIRECTORS

Sections

18.39.050	Application—Form—Photograph—Fees—Renewals and fees.
18.39.120	Apprentices—Registration—Notice of termination—Fees.
18.39.130	License—Reciprocity with other states.
18.39.150	License lapse—Reinstatement—Fee—Reexamination.

18.39.050 Application—Form—Photograph—Fees—Renewals and fees. Every application for a license hereunder, whether for an initial issue or for a renewal of one already granted, shall be made in writing on a form prescribed by the director and be verified by oath or affirmation before some person authorized by law to administer the same. The original application shall be accompanied by a natural photo of applicant. Every person making application for an initial issue of a license when an examination is required shall pay to the state treasurer a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended and, in case such application is granted he shall pay the further fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended prior to the issuance of such license. Every licensed embalmer or licensed funeral director shall make an application for a renewal of his license for the succeeding year, on or before the 31st day of December of the current year, and pay to the state treasurer a fee to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and upon the payment thereof shall be entitled to a renewal of his license. [1975 1st ex.s. c 30 § 42; 1971 ex.s. c 266 § 8; 1937 c 108 § 6; RRS § 8318-1. Formerly RCW 18.39.050, 18.39.060 and 18.39.140.]

18.39.120 Apprentices—Registration—Notice of termination—Fees. Every person engaged in the business of funeral directing or embalming, who shall employ an apprentice or apprentices to assist him in the conduct of such business, shall register the name of each apprentice so employed with said director at the time of the beginning of said apprenticeship, and such person shall also forward to the said director notice of the termination of such apprenticeship. Such registration shall also be made in the month of January of every year thereafter by the employer of such apprentice during the continuance of such apprenticeship. A fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be paid to the state treasurer for the initial registration of such apprentice, and thereafter a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be paid to the state treasurer for each annual renewal of the same. [1975 1st ex.s. c 30 § 43; 1937 c 108 § 10; RRS § 8322.]

18.39.130 License—Reciprocity with other states. The director may recognize licenses issued to funeral directors or embalmers from other states and, upon presentation of such licenses may, upon the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, issue to the lawful holder thereof the funeral director's or embalmer's license herein provided for: *Provided, however,* That such recognition shall not be extended to funeral directors or embalmers holding licenses from other states unless reciprocal rights are granted to holders of funeral directors' or embalmers' licenses granted in the state of Washington. Such reciprocal licenses may be renewed annually upon payment of the renewal license

fee as herein provided in the case of license holders residing in the state of Washington. No person shall be entitled to such reciprocal license as a funeral director or embalmer unless he shall furnish proof that he has, in the state in which he is regularly licensed, complied with requirements substantially equal to those set out in this chapter. [1975 1st ex.s. c 30 § 44; 1937 c 108 § 15; RRS § 8325. Prior: 1909 c 215 § 16.]

18.39.150 License lapse—Reinstatement—Fee—Reexamination. When a licensee has, for any reason, allowed his license to lapse, he may be granted a license upon application therefor made to the director, upon payment to the state treasurer of the fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended: *Provided*, Such application is made within one year after the expiration of his previous license. If such application is not made within such one year period, as in this section provided, then the applicant shall be required to take an examination before the director and pay the license fee, as required by the provisions of this chapter in the case of initial applications. [1975 1st ex.s. c 30 § 45; 1937 c 108 § 8; RRS § 8320.]

Chapter 18.43 ENGINEERS AND LAND SURVEYORS

Sections

- 18.43.050 Application, registration and issuance fees.
- 18.43.080 Expiration and renewals of certificates—Fees (as amended by 1975 c 23).
- 18.43.080 Expiration and renewals of certificates—Fees (as amended by 1975 1st ex.s. c 30).
- 18.43.100 Registration of out-of-state applicants—Requirements—Reciprocity.
- 18.43.110 Revocations.
- 18.43.130 Excepted services—Fees.

18.43.050 Application, registration and issuance fees. Application for registration shall be on forms prescribed by the board and furnished by the director, shall contain statements made under oath, showing the applicant's education and detail summary of his technical work and shall contain not less than five references, of whom three or more shall be engineers having personal knowledge of his engineering experience.

The registration fee for professional engineers shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which shall accompany the application. The director shall also determine a fee as provided in RCW 43.24.085 as now or hereafter amended to be paid upon issuance of the certificate. The fee for engineer-in-training shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which shall accompany the application and shall include the cost of examination and issuance of certificate. When registration as a professional engineer is completed by an engineer-in-training an additional fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be paid before issuance of certificate as professional engineer.

The registration fee for land surveyors shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which shall accompany the application and shall include the cost of examination and issuance of certificate. The registration fee for professional engineers also qualified as land surveyors shall be the same as for professional engineers.

Should the board deny the issuance of a certificate of registration to any applicant, the initial fee deposited shall be retained as an application fee. [1975 1st ex.s. c 30 § 46; 1947 c 283 § 8; Rem. Supp. 1947 § 8306-25. Prior: 1935 c 167 § 6; RRS § 8306-6.]

18.43.080 Expiration and renewals of certificates—Fees (as amended by 1975 c 23). Certificates of registration, and certificates of authorization and renewals thereof shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the administrator of the division of professional licensing to notify every person, firm or corporation registered under this chapter, of the date of the expiration of his certificate and the amount of the renewal fee that shall be required for its renewal for one year. Such notice shall be mailed at least thirty days before the end of December of each year. Renewal may be effected during the month of December by the payment of a fee of fifteen dollars for professional engineer, professional engineer and land surveyor, and fifteen dollars for land surveyor. In case any professional engineer and/or land surveyor registered under this chapter shall fail to pay the renewal fee hereinabove provided for, within ninety days from the date when the same shall become due, the renewal fee shall be the current fee plus an amount equal to one year's fee. [1975 c 23 § 1; 1965 ex.s. c 126 § 1; 1961 c 142 § 3; 1959 c 297 § 5; 1947 c 283 § 11; Rem. Supp. 1947 § 8306-28. Prior: 1935 c 167 § 10; RRS § 8306-10.]

18.43.080 Expiration and renewals of certificates—Fees (as amended by 1975 1st ex.s. c 30). Certificates of registration, and certificates of authorization and renewals thereof shall expire on the last day of the month of December following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the administrator of the division of professional licensing to notify every person, firm or corporation registered under this chapter, of the date of the expiration of his certificate and the amount of the renewal fee that shall be required for its renewal for one year. Such notice shall be mailed at least thirty days before the end of December of each year. Renewal may be effected during the month of December by the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. In case any professional engineer and/or land surveyor registered under this chapter shall fail to pay the renewal fee hereinabove provided for, within ninety days from the date when the same shall become due, the renewal fee shall be the current fee plus an amount equal to one year's fee. [1975 1st ex.s. c 30 § 47; 1965 ex.s. c 126 § 1; 1961 c 142 § 3; 1959 c 297 § 5; 1947 c 283 § 11; Rem. Supp. 1947 § 8306-28. Prior: 1935 c 167 § 10; RRS § 8306-10.]

Reviser's note: RCW 18.43.080 was amended twice during the 1975 regular and 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 session, see RCW 1.12.025.

18.43.100 Registration of out-of-state applicants—Requirements—Reciprocity. The board may, upon application therefor, and the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended issue a certificate without further examination as a professional engineer or land surveyor to any person who holds a certificate of qualification of registration issued to him following examination by proper authority, of any state or territory or possession of the United States, the District of Columbia, or of any foreign country, provided: (1) That

the applicant's qualifications meet the requirements of the chapter, and the rules established by the board, (2) that the applicant is in good standing with the licensing agency in said state, territory, possession, district, or foreign country; and (3) that the said state, territory, possession, district, or foreign country gives like consideration on a reciprocal basis to those persons who have been registered by examination in this state. [1975 1st ex.s. c 30 § 48; 1959 c 297 § 6; 1947 c 283 § 13; Rem. Supp. 1947 § 8306-30. Prior: 1935 c 167 § 5; RRS § 8306-5.]

18.43.110 Revocations. The board shall have the exclusive power to revoke the certificate of registration of any registrant who is found guilty of:

The practice of any fraud or deceit in obtaining a certificate of registration; or

Any gross negligence, incompetency, or misconduct in the practice of engineering or land surveying as a registered engineer or land surveyor.

Any person may prefer charges of fraud, deceit, gross negligence, incompetency, or misconduct against any registrant. Such charges shall be in writing and shall be sworn to by the person making them and shall be filed with the secretary of the board.

All charges, unless dismissed by the board as unfounded or trivial, shall be heard by the board within three months after the date on which they have been preferred.

The time and place for said hearing shall be fixed by the board and a copy of the charges, together with a notice of the time and place of hearing, shall be personally served on or mailed to the last known address of such registrant, at least thirty days before the date set for the hearing. At any hearing the accused registrant shall have the right to appear personally and by counsel, to cross-examine witnesses appearing against him, and to produce evidence and witnesses in his own defense.

If, after such hearing, three or more members of the board vote in favor of finding the accused guilty, the board shall revoke the certificate of registration of such registered professional engineer or land surveyor.

The board, for reasons it deems sufficient, may reissue a certificate of registration to any person whose certificate has been revoked, providing three or more members of the board vote in favor of such issuance. A new certificate of registration to replace any certificate revoked, lost, destroyed, or mutilated may be issued by the director, subject to the rules of the board, and a charge determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be made for such issuance.

Any person who shall feel aggrieved by any action of the board in denying or revoking his certificate of registration may appeal therefrom to the superior court of the county in which such person resides, and after full hearing, said court shall make such decree sustaining or revoking the action of the board as it may deem just and proper. [1975 1st ex.s. c 30 § 49; 1947 c 283 § 14; Rem. Supp. 1947 § 8306-31. Prior: 1935 c 167 § 11; RRS § 8306-11.]

18.43.130 Excepted services—Fees. This chapter shall not be construed to prevent or affect:

(1) The practice of any other legally recognized profession or trade; or

(2) The practice of a person not a resident and having no established place of business in this state, practicing or offering to practice herein the profession of engineering or land surveying, when such practice does not exceed in the aggregate more than thirty days in any calendar year: *Provided*, Such person is legally qualified by registration to practice the said profession in his own state or country in which the requirements and qualifications for obtaining a certificate of registration are not lower than those specified in this chapter; or

(3) The practice of a person not a resident and having no established place of business in this state, or who has recently become a resident thereof, practicing or offering to practice herein for more than thirty days in any calendar year the profession of engineering or land surveying, if he shall have filed with the board an application for a certificate of registration and shall have paid the fee required by this chapter: *Provided*, That such person is legally qualified by registration to practice engineering or land surveying in his own state or country in which the requirements and qualifications of obtaining a certificate of registration are not lower than those specified in this chapter. Such practice shall continue only for such time as the board requires for the consideration of the application for registration; or

(4) The work of an employee or a subordinate of a person holding a certificate of registration under this chapter, or an employee of a person practicing lawfully under provisions of this section: *Provided*, That such work does not include final design or decisions and is done under the direct responsibility, checking, and supervision of a person holding a certificate of registration under this chapter or a person practicing lawfully under the provisions of this section; or

(5) The work of a person rendering engineering or land surveying services to a corporation, as an employee of such corporation, when such services are rendered in carrying on the general business of the corporation and such general business does not consist, either wholly or in part, of the rendering of engineering services to the general public: *Provided*, That such corporation employs at least one person holding a certificate of registration under this chapter or practicing lawfully under the provisions of this chapter; or

(6) The practice of officers or employees of the government of the United States while engaged within the state in the practice of the profession of engineering or land surveying for said government; or

(7) Nonresident engineers employed for the purpose of making engineering examinations; or

(8) The practice of engineering in this state by a corporation or joint stock association: *Provided*, That

(a) Such corporation shall file with the board an application for certificate of authorization upon a form to be prescribed by the board and containing information required to enable the board to determine whether such

corporation is qualified in accordance with the provisions of this chapter to practice engineering in this state;

(b) Such corporation shall file with the board a certified copy of a resolution of the board of directors of the corporation which shall designate a person holding a certificate of registration under this chapter as responsible for the practice of engineering by said corporation in this state and shall provide that full authority to make all final engineering decisions on behalf of said corporation with respect to work performed by the corporation in this state shall be granted and delegated by the board of directors to the person so designated in said resolution: *Provided*, That the filing of such resolution shall not relieve the corporation of any responsibility or liability imposed upon it by law or by contract;

(c) Such corporation shall file with the board a designation in writing setting forth the name or names of a person or persons holding certificates of registration under this chapter who shall be in responsible charge of each project and each major branch of the engineering activities in which the corporation shall specialize in this state. In the event there shall be a change in the person or persons in responsible charge of any project or major branch of the engineering activities, such changes shall be designated in writing and filed with the board within thirty days after the effective date of such changes;

(d) Upon the filing with the board of the application for certificate for authorization, certified copy of resolution, affidavit and designation of persons specified in subparagraphs (a), (b), and (c) of this section the board shall issue to such corporation a certificate of authorization to practice engineering in this state upon a determination by the board (1) that:

(i) The bylaws of the corporation contain provisions that all engineering decisions pertaining to any project or engineering activities in this state shall be made by the specified engineer in responsible charge, or other responsible engineers under his direction or supervision;

(ii) The application for certificate of authorization states the type, or types, of engineering practiced, or to be practiced by such corporation;

(iii) A current certified financial statement accurately reflecting the financial condition of the corporation has been filed with the board and is available for public inspection;

(iv) The applicant corporation has the ability to provide through qualified engineering personnel, professional services or creative work requiring engineering experience, and that with respect to the engineering services which the corporation undertakes or offers to undertake such personnel have the ability to apply special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with any public or private utilities, structures, buildings, machines, equipment, processes, works, or projects;

(v) The application for certificate of authorization states the professional records of the designated person or persons who shall be in responsible charge of each project and each major branch of engineering activities in which the corporation shall specialize;

(vi) The application for certificate of authorization states the experience of the corporation, if any, in furnishing engineering services during the preceding five year period and states the experience of the corporation, if any, in the furnishing of all feasibility and advisory studies made within the state of Washington;

(vii) The applicant corporation meets such other requirements related to professional competence in the furnishing of engineering services as may be established and promulgated by the board in furtherance of the objectives and provisions of this chapter; and

(2) Upon a determination by the board based upon an evaluation of the foregoing findings and information that the applicant corporation is possessed of the ability and competence to furnish engineering services in the public interest.

The board may in the exercise of its discretion refuse to issue or may suspend and/or revoke a certificate of authorization to a corporation where the board shall find that any of the officers, directors, incorporators, or the stockholders holding a majority of stock of such corporation has committed misconduct or malpractice as defined in RCW 18.43.105 or has been found personally responsible for misconduct or malpractice under the provisions of subsections (f) and (g) hereof.

The certificate of authorization shall specify the major branches of engineering of which the corporation has designated a person or persons in responsible charge as provided in subsection (8) (c) of this section.

(e) In the event a corporation, organized solely by a group of engineers, each holding a certificate of registration under this chapter, applies for a certificate of authorization, the board may, in its discretion, grant a certificate of authorization to such corporation based on a review of the professional records of such incorporators, in lieu of the required qualifications set forth in this subsection. In the event the ownership of such corporation shall be altered, the corporation shall apply for a revised certificate of authorization, based upon the professional records of the owners, if exclusively engineers or, otherwise, under the qualifications required by subparagraphs (a), (b), (c), and (d) hereof.

(f) Any corporation authorized to practice engineering under this chapter, together with its directors and officers for their own individual acts, are responsible to the same degree as an individual registered engineer, and must conduct its business without misconduct or malpractice in the practice of engineering as defined in this chapter.

(g) Any corporation which has been duly certified under the provisions of this chapter and has engaged in the practice of engineering shall have its certificate of authorization either suspended or revoked by the board if, after a proper hearing, the board shall find that the corporation has committed misconduct or malpractice as defined in RCW 18.43.105. In such case any individual engineer holding a certificate of registration under

this chapter, involved in such malpractice or misconduct, shall have his certificate of registration suspended or revoked also.

(h) All plans, specifications, designs, and reports when issued in connection with work performed by a corporation under its certificate of authorization shall be prepared by or under the responsible charge of and shall be signed by and shall be stamped with the official seal of a person holding a certificate of registration under this chapter.

(i) For each certificate of authorization issued under the provisions of this subsection (8) of this section there shall be paid an initial fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended and an annual renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

(9) The practice of engineering and/or land surveying in this state by partnership: *Provided*, That

(a) A majority of the members of the partnership are engineers or architects or land surveyors duly certificated by the state of Washington or by a state, territory, possession, district, or foreign country meeting the reciprocal provisions of RCW 18.43.100: *Provided*, That at least one of the members is a professional engineer or land surveyor holding a certificate issued by the director under the provisions of RCW 18.43.070; and

(b) Except where all members of the partnership are professional engineers or land surveyors or a combination of professional engineers and land surveyors or where all members of the partnership are either professional engineers or land surveyors in combination with an architect or architects all of which are holding certificates of qualification therefor issued under the laws of the state of Washington, the partnership shall file with the board an instrument executed by a partner on behalf of the partnership designating the persons responsible for the practice of engineering by the partnership in this state and in all other respects such person so designated and such partnership shall meet the same qualifications and shall be subject to the same requirements and the same penalties as those pertaining to corporations and to the responsible persons designated by corporations as provided in subsection (8) of this section.

For each certificate of authorization issued under the provisions of this subsection (9) of this section there shall be paid an initial fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended and an annual renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 50; 1965 ex.s. c 126 § 2; 1961 c 142 § 5; 1959 c 297 § 7; 1947 c 283 § 16; Rem. Supp. 1947 § 8306-33. Prior: 1935 c 167 § 2; RRS § 8306-2.]

Chapter 18.50 MIDWIFERY

Sections

18.50.050 Application—Examination fee.

[1975 RCW Supp—p 160]

18.50.050 Application—Examination fee. If the application is approved and the candidate shall have deposited an examination fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended with the director, the candidate shall be admitted to the examination, and in case of failure to pass the examination, may be reexamined at any regular examination within one year without the payment of an additional fee, said fee to be retained by the director after failure to pass the second examination. [1975 1st ex.s. c 30 § 51; 1917 c 160 § 3; RRS § 10176.]

Chapter 18.51 NURSING HOMES

Sections

18.51.007 Legislative intent—1975 1st ex.s. c 99.
18.51.050 License, provisional license—Issuance, renewal—Fee—Display.
18.51.055 Provisional license—When issued—Renewal—Termination.
18.51.060 Denial, suspension, revocation of license or provisional license—Penalty.
18.51.065 Denial, suspension, revocation of license or provisional license—Hearing.
18.51.090 Inspection of nursing homes—Approval of new facilities. (Amended)
18.51.090 Inspection of nursing homes—Approval of new facilities. (Repealed)
18.51.120 Repealed.
18.51.130 Repealed.
18.51.190 Complaint of violation—Request for inspection—Notice—Confidentiality.
18.51.200 Preliminary review of complaint—On-site inspection.
18.51.210 Authority to enter and inspect nursing home—Advance notice—Defense.
18.51.220 Retaliation or discrimination against complainant prohibited, penalty—Presumption.
18.51.230 Annual general inspection—Required—Advance notice prohibited.
18.51.240 Alterations or additions—Preliminary inspection and approval.
18.51.250 Nursing homes without violations—Public agencies referring patients to be notified—Priority.
18.51.260 Citations for violation of RCW 18.51.060 to be posted.
18.51.270 Annual report of citations for violations—Publication—Contents.
18.51.280 Chapter cumulative.
18.51.290 Writings deemed public record—Open to public inspection—Exception.
18.51.300 Retention and preservation of records of patients.

18.51.007 Legislative intent—1975 1st ex.s. c 99. It is the intent of the legislature in enacting *this 1975 amendatory act to establish (1) a system for the imposition of prompt and effective sanctions against nursing homes in violation of the laws and regulations of this state relating to patient care; (2) an inspection and reporting system to insure that nursing homes are in compliance with state statutes and regulations pertaining to patient care; and (3) a provisional licensing mechanism to insure that full term licenses are issued only to those nursing homes that meet state standards relating to patient care: *Provided*, That no sanction shall be imposed by the department until the department has informed the owner and administrator of the nursing home about the rules and regulations required to be followed to avoid penalties and until the department has granted a reasonable amount of time to the

owner and administrator of the nursing home to correct the condition which would result in the penalty. [1975 1st ex.s. c 99 § 3.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 99] consists of RCW 18.51.007, 18.51.055, 18.51.065, 18.51.190-18.51.290, amendments to RCW 18.51.050 and 18.51.060 and the repeal of RCW 18.51.090, 18.51.120 and 18.51.130.

18.51.050 License, provisional license—Issuance, renewal—Fee—Display. Upon receipt of an application for license, the department, or the department and the approved health department jointly, shall issue a license or a provisional license if the applicant and the nursing home facilities meet the requirements established under this chapter. At the time of issuance or renewal of the license or provisional license the licensee shall pay a license fee of fifteen dollars plus one dollar per bed capacity per year, but in no event shall the total exceed one hundred dollars. No fee shall be required of government operated institutions. When the license or provisional license is issued jointly by the department and an approved health department, the license fee shall be paid to the approved health department. All licenses issued under the provisions of this chapter shall expire on a date to be set by the board, but no license issued pursuant to this chapter shall exceed twelve months in duration: *Provided*, That when the annual license renewal date of a previously licensed nursing home is set by the board on a date less than twelve months prior to the expiration date of a license in effect at the time of reissuance, the license fee shall be prorated on a monthly basis and a credit be allowed at the first renewal of a license for any period of one month or more covered by the previous license. All applications for renewal of license shall be made not later than thirty days prior to the date of expiration of the license. Each license shall be issued only for the premises and persons named in the application, and no license shall be transferable or assignable except with the written approval of the department. Licenses shall be posted in a conspicuous place on the licensed premises. [1975 1st ex.s. c 99 § 1; 1971 ex.s. c 247 § 2; 1953 c 160 § 4; 1951 c 117 § 6.]

18.51.055 Provisional license—When issued—Renewal—Termination. (1) If a nursing home has not been previously licensed pursuant to this chapter, the department may only provisionally license such facility as provided in this section. A provisional license to operate a nursing home shall terminate six months from the date of issuance. Within thirty days of the termination of a provisional license, the department shall give such facility a full and complete inspection, and, if the facility meets requirements for licensure, a regular license shall be issued. If the nursing home does not meet the requirements for licensure but has made substantial progress towards meeting such requirements, as determined by the department, the initial provisional license shall be renewed for six months. If the department determines that there has not been substantial progress towards meeting licensure requirements at the time of the first full inspection provided by this section, or, if

the state department determines upon its inspection made within thirty days of the termination of a renewed provisional license that there is lack of compliance with such requirements, no further license shall be issued.

(2) A nursing home seeking renewal of a license may, in the discretion of the department, be granted a provisional license under this section instead of a regular license, where there has been a failure to comply with the provisions of this chapter or the standards, rules and regulations promulgated pursuant thereto. [1975 1st ex.s. c 99 § 15.]

18.51.060 Denial, suspension, revocation of license or provisional license—Penalty. The department is authorized to deny, suspend, or revoke a license or provisional license or, in lieu thereof or in addition thereto, assess monetary penalties of a civil nature not to exceed five hundred dollars per violation in any case in which it finds that the applicant, or licensee, or any partner, officer, director, owner of ten percent or more of the assets of the nursing home, or managing employee:

(1) Failed or refused to comply with the requirements of this chapter or the standards, rules and regulations established hereunder; or

(2) Was the holder of a license issued pursuant to this chapter, which was revoked for cause and never reissued by the department, or which license was suspended for cause and the terms of the suspension have not been fulfilled; or

(3) Has knowingly or with reason to know made a false statement of a material fact in his application for license or any data attached thereto, or in any matter under investigation by the department; or

(4) Refused to allow representatives or agents of the department to inspect all books, records, and files required to be maintained or any portion of the premises of the nursing home; or

(5) Wilfully prevented, interfered with, or attempted to impede in any way the work of any duly authorized representative of the department and the lawful enforcement of any provision of this chapter; or

(6) Wilfully prevented or interfered with any representative of the department in the preservation of evidence of any violation of any of the provisions of this chapter or the standards, rules, and regulations promulgated hereunder; or

(7) Fails to pay any civil monetary penalty assessed by the department pursuant to this chapter within ten days after such assessment becomes final: *Provided*, That in no event shall the department assess a civil monetary penalty authorized pursuant to this section or post the said premises as provided in RCW 18.51.260 or include in the report required pursuant to RCW 18.51-.270 during any period in which it has not fully implemented and funded its cost-related reimbursement system for public patients. [1975 1st ex.s. c 99 § 2; 1953 c 160 § 5; 1951 c 117 § 7.]

18.51.065 Denial, suspension, revocation of license or provisional license—Hearing. All orders of the department denying, suspending, or revoking the license or provisional license, and/or assessing a monetary

penalty shall become final twenty days after the same has been served upon the applicant or licensee unless a hearing is requested. All hearings hereunder and judicial review of such determinations shall be in accordance with the administrative procedure act, chapter 34.04 RCW. [1975 1st ex.s. c 99 § 16.]

18.51.090 Inspection of nursing homes—Approval of new facilities. The department or approved health department shall make or cause to be made at least a yearly inspection and investigation of all nursing homes. Every inspection may include an inspection of every part of the premises and an examination of all records, methods of administration, the general and special dietary and the stores and methods of supply. Following such inspection or inspections, written notice of any violation of this law or the rules and regulations promulgated hereunder, shall be given the applicant or licensee and the department. The board may prescribe by regulations that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized. [1975 1st ex.s. c 213 § 2; 1953 c 160 § 6; 1951 c 117 § 10.]

Reviser's note: The amendment of this section by 1975 1st ex.s. c 213 does not take cognizance of the section's repeal by 1975 1st ex.s. c 99 § 17.

18.51.090 Inspection of nursing homes—Approval of new facilities. [1953 c 160 § 6; 1951 c 117 § 10.] Repealed by 1975 1st ex.s. c 99 § 17.

Reviser's note: This section was also amended by 1975 1st ex.s. c 213 § 2 without cognizance of the repeal thereof.

18.51.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.51.130 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.51.190 Complaint of violation—Request for inspection—Notice—Confidentiality. Any person may request an inspection of any nursing home subject to licensing under this chapter in accordance with the provisions of this chapter by giving notice to the department of an alleged violation of applicable requirements of state law. Any such notice shall be in writing signed by the complainant and shall set forth with reasonable particularity the matters complained of. The substance of the complaint shall be provided to the licensee no earlier than at the commencement of the inspection. Neither the substance of the complaint provided the licensee nor any copy of the complaint or record published, released, or otherwise made available to the licensee shall disclose the name of any individual complainant or other person mentioned in the complaint, except the name or names of any duly authorized officer, employee, or agent of the department conducting the investigation or inspection pursuant to this chapter, unless such complainant specifically requests the release of such name or names. [1975 1st ex.s. c 99 § 4.]

18.51.200 Preliminary review of complaint—On-site inspection. Upon receipt of a complaint, the department shall assign an inspector to make a preliminary review of the complaint and shall notify the complainant of the name of such inspector. Unless the department determines that the complaint is wilfully intended to harass a licensee or is without any reasonable basis, it shall make an on-site inspection within a reasonable time after the receipt of the complaint. In either event, the complainant shall be promptly informed of the department's proposed course of action. If the complainant requests the opportunity to do so, the complainant or his representative, or both, may be allowed to accompany the inspector to the site of the alleged violations during his tour of the facility, unless the inspector determines that the privacy of any patient would be violated thereby. [1975 1st ex.s. c 99 § 5.]

18.51.210 Authority to enter and inspect nursing home—Advance notice—Defense. (1) Any duly authorized officer, employee, or agent of the department may enter and inspect any nursing home, including, but not limited to, interviewing residents and reviewing records, at any time to enforce any provision of this chapter. Inspections conducted pursuant to complaints filed with the department shall be conducted in such a manner as to ensure maximum effectiveness. No advance notice shall be given of any inspection conducted pursuant to this chapter unless previously and specifically authorized by the secretary or required by federal law.

(2) Any public employee giving such advance notice in violation of this section shall be suspended from all duties without pay for a period of not less than five nor more than fifteen days.

(3) In any hearing held pursuant to this chapter it shall be a defense to a violation relating to the standard of care to be afforded public patients to show that the department does not provide sufficient funds to meet the cost of reimbursement standard allegedly violated. [1975 1st ex.s. c 99 § 6.]

18.51.220 Retaliation or discrimination against complainant prohibited, penalty—Presumption. (1) No licensee shall discriminate or retaliate in any manner against a patient or employee in its nursing home on the basis or for the reason that such patient or employee or any other person has initiated or participated in any proceeding specified in this chapter. A licensee who violates this section is subject to a civil penalty of not more than five hundred dollars.

(2) Any attempt to expel a patient from a nursing home, or any type of discriminatory treatment of a patient by whom, or upon whose behalf, a complaint has been submitted to the department or any proceeding instituted under or related to this chapter within one year of the filing of the complaint or the institution of such action, shall raise a rebuttable presumption that such action was taken by the licensee in retaliation for the filing of the complaint. [1975 1st ex.s. c 99 § 7.]

18.51.230 Annual general inspection—Required—Advance notice prohibited. The department shall, in addition to any inspections conducted pursuant to complaints filed pursuant to RCW 18.51.190, conduct at least one general inspection each year of all nursing homes in the state without providing advance notice of such inspection. At least one such inspection in any three year period shall take place between the hours of 7 p.m. and 5 a.m. or on weekends. [1975 1st ex.s. c 99 § 10.]

18.51.240 Alterations or additions—Preliminary inspection and approval. The board may prescribe by regulations that any licensee or applicant desiring to make specific types of alterations or additions to its facilities or to construct new facilities shall, before commencing such alteration, addition or new construction, submit its plans and specifications therefor to the department for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized. [1975 1st ex.s. c 99 § 11.]

18.51.250 Nursing homes without violations—Public agencies referring patients to be notified—Priority. On or before February 1st of each year, the department shall notify all public agencies which refer patients to nursing homes of all of the nursing homes in the area found upon inspection within the previous twelve-month period to be without violations. Public agencies shall give priority to such nursing homes in referring publicly assisted patients. [1975 1st ex.s. c 99 § 12.]

18.51.260 Citations for violation of RCW 18.51.060 to be posted. Each citation for a violation specified in subsections (1) through (7) of RCW 18.51.060 which is issued pursuant to this section and which has become final, or a copy or copies thereof, shall be prominently posted, as prescribed in regulations issued by the director, until the violation is corrected to the satisfaction of the department up to a maximum of one hundred twenty days. The citation or copy shall be posted in a place or places in plain view of the patients in the nursing home, persons visiting those patients, and persons who inquire about placement in the facility. [1975 1st ex.s. c 99 § 13.]

18.51.270 Annual report of citations for violations—Publication—Contents. The department shall annually publish a report listing all licensees by name and address, indicating (1) the number of citations and the nature of each citation issued to each licensee during the previous twelve-month period and the status of any action taken pursuant to each citation, including penalties assessed, and (2) the nature and status of action taken with respect to each uncorrected violation for which a citation is outstanding.

The report shall be available to the public, at cost, at all offices of the department. [1975 1st ex.s. c 99 § 14.]

18.51.280 Chapter cumulative. The remedies provided by this chapter are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party, and no judgment under this chapter shall preclude any party from obtaining additional relief based upon the same facts. [1975 1st ex.s. c 99 § 8.]

18.51.290 Writings deemed public record—Open to public inspection—Exception. Any writing received, owned, used, or retained by the department in connection with the provisions of this chapter is a public record and, as such, is open to public inspection. However, the names of any persons contained in such records, except the names of duly authorized officers, employees, or agents of the department conducting an investigation or inspection in response to a complaint filed pursuant to this chapter, shall not be open to public inspection and copies of such records provided for public inspection shall have such names deleted. [1975 1st ex.s. c 99 § 9.]

18.51.300 Retention and preservation of records of patients. Unless specified otherwise by the board, a nursing home shall retain and preserve all records which relate directly to the care and treatment of a patient for a period of no less than ten years following the most recent discharge of the patient; except the records of minors, which shall be retained and preserved for a period of no less than three years following attainment of the age of eighteen years, or ten years following such discharge, whichever is longer.

If a nursing home ceases operations, it shall make immediate arrangements, as approved by the department, for preservation of its records.

The board shall by regulation define the type of records and the information required to be included in the records to be retained and preserved under this section; which records may be retained in photographic form pursuant to chapter 5.46 RCW. [1975 1st ex.s. c 175 § 2.]

Chapter 18.52 NURSING HOME ADMINISTRATORS

Sections	
18.52.040	Board of examiners for nursing home administrators—Created—Membership.
18.52.070	Qualifications of licensees—Examinations.
18.52.080	Provisional licenses.
18.52.110	Reregistration of licenses.
18.52.120	Suspension, revocation or refusal of reregistration of licenses.
18.52.130	Reciprocity.

18.52.040 Board of examiners for nursing home administrators—Created—Membership. There is hereby created a state board of examiners for nursing home administrators which shall consist of nine members appointed by the governor. All members shall be representative of the professions and institutions concerned with the care and treatment of chronically ill or infirm

elderly patients. However, at no time shall representatives of a single profession or a single institutional category compose a majority of the board membership. In addition, no member who is a noninstitutional representative shall have any direct financial interest in nursing homes while serving as a member of the board. For purposes of this section, nursing home administrators are considered representatives of institutions. Eight of the board's members shall be privately or self-employed persons who the governor finds have had at least four years of actual experience in the administration or overall management of licensed nursing homes in this state immediately prior to the governor's appointment of them to the board; or shall be representatives from the medical professions, or health care administration education, or persons with four years actual experience in the administration of the nursing home unit of a licensed hospital immediately preceding the governor's appointment of them to the board; and shall be privately or self-employed persons, or persons employed by educational institutions, whom the governor appoints because of their special knowledge or expertise in the field of long term care or the care of the aged and chronically ill: *Provided*, That one member shall be a citizen eligible for medicare who shall have no financial interest in or family ownership connection with nursing homes. Board members selected who meet any of the preceding qualifications may in addition be nurses, physicians or other persons with special health care training. The governor shall consult with and seek the recommendations of the appropriate state-wide business and professional organizations and societies primarily concerned with long term health care facilities in the course of considering his appointments to the board. [1975 1st ex.s. c 97 § 1; 1970 ex.s. c 57 § 4.]

18.52.070 Qualifications of licensees—Examinations. Upon the director's receipt of an application and examination fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and completed application forms provided by the director, a nursing home administrator's license shall be issued to any person who:

(1) Is at least twenty-one years of age and of good moral character.

(2) Has satisfactorily completed a course of instruction and training concerning nursing home or health facility administration approved by the board, or has presented upon his affidavit evidence satisfactory to the board of at least two years of practical experience in the field of institutional administration which, regardless of formal training or instruction, is in the opinion of the board equivalent to two years of experience in the operation of a nursing home.

(3) Has passed an examination administered by the board which shall be designed to test the candidate's competence to administer a nursing home on the basis of the candidate's formal instruction and training or actual experience: *Provided however*, That nothing in this chapter or the rules and regulations thereunder shall be construed to require an applicant for a license or provisional license as a nursing home administrator

who is certified by any well established and generally recognized church or religious denomination which teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by such church or denomination for the care and treatment of the sick in accordance with its teachings, to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in such institutions: *Provided further*, That any such individual shall demonstrate in the process of application for the examination his membership in such church or religious denomination and his license shall indicate the limited extent of his authority to act as an administrator.

(4) The initial administrator members of the board shall be selected and appointed by the governor to meet the requirements of subsection (1) of this section and of RCW 18.52.040 and 18.52.050. The three nonadministrator members of the first board shall administer to the initial administrator members an appropriate examination, and the initial administrator members shall thereafter be issued their licenses under this chapter as nursing home administrators. The three nonadministrator members of the first board may exercise the powers of the board to carry out licensing of the initial administrator members, regardless of the normal quorum or procedural requirements for board action. The licensing of the initial administrator members of the first board shall be carried out within thirty days after appointment of the board, and in all events prior to April 1, 1970. [1975 1st ex.s. c 30 § 52; 1970 ex.s. c 57 § 7.]

18.52.080 Provisional licenses. (1) Upon the director's receipt of an annual fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, a provisional license may be issued to any individual applying therefor who has served, as shown by such individual's affidavit, as a nursing home administrator during all of the calendar year immediately preceding July 1, 1970, and meets the standards of RCW 18.52.070(1). Any such provisional license shall terminate after two years or at midnight, June 30, 1972, whichever is earlier. If prior to the expiration of such provisional license, the provisional licensee has qualified to take and has passed the examination required by the board, a nursing home administrator's license shall be issued to him.

(2) If a provisional license is issued to any individual, there shall be provided in this state during all of the period for which such provisional license remains in effect a program of training and instruction designed to enable all provisional licensed nursing home administrators to attain the qualifications necessary to be fully licensed as a nursing home administrator as provided under this chapter. The single state agency administering the program of this state under Title XIX of the Federal Social Security Act shall apply for, receive, and administer such federal funds as are made available to carry out the educational programs contemplated by this section. [1975 1st ex.s. c 30 § 53; 1970 ex.s. c 57 § 8.]

18.52.110 Reregistration of licenses. (1) Every holder of a nursing home administrator's license shall reregister it annually with the director on dates specified by the director by making application for reregistration on forms provided by the director. Such reregistration shall be granted automatically upon receipt of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. In the event that any license is not reregistered within thirty days after the date for reregistration specified by the director, the director shall, in accordance with rules prescribed by the board, give notice to the license holder, and may thereafter in accordance with rules prescribed by the board charge up to double the normal reregistration fee. In the event that the license of an individual is not reregistered within three years from the most recent date for reregistration it shall lapse and such individual must again apply for licensing and meet all requirements of this chapter for a new applicant. The board may prescribe rules for maintenance of a license at a reduced fee for temporary or permanent withdrawal or retirement from the active practice of nursing home administration.

(2) A condition of reregistration shall be the presentation of proof by the applicant that he has attended the number of classroom hours of approved educational programs, classes, seminars, or proceedings set by the board. The board shall have the power to approve programs, classes, seminars, or proceedings offered in this state or elsewhere by any accredited institution of higher learning or any national or local group or society if such programs, classes, seminars, or proceedings are reasonably related to the administration of nursing homes. The board shall establish rules and regulations providing that the applicant for reregistration may present such proofs yearly, or may obtain the cumulative number of required hours over a three year period and present such proofs over periods of three years. In no event shall the number of classroom hours required for any time period exceed the number of such board approved classroom hours reasonably available over such time period on an adult or continuing education basis to nonmatriculating participants in this state.

(3) An individual may obtain and reregister a license under this chapter although he does not actively engage in nursing home administration. [1975 1st ex.s. c 30 § 54; 1971 ex.s. c 266 § 9; 1970 ex.s. c 57 § 11.]

18.52.120 Suspension, revocation or refusal of reregistration of licenses. The director, after notice and hearing before the board and upon the order of the board shall refuse to reregister or shall suspend or revoke an administrator's license as provided in this chapter:

(1) In the event the licensee or applicant has committed any fraud or material misrepresentation or concealment in obtaining or applying for the license.

(2) In the event the licensee or applicant has been convicted of a crime involving moral turpitude.

(3) If the license was obtained due to the mistake or inadvertence of the board or director.

(4) In the event the licensee has wilfully or repeatedly violated any of the provisions of this chapter or of the rules promulgated by the board in accordance with this

chapter, or of the rules promulgated by the department of social and health services: *Provided*, That the license suspension shall only occur when instituted by board action and shall be subject to court review pursuant to chapter 34.04 RCW.

(5) In the event the licensee has been declared mentally incompetent by a court of competent jurisdiction.

Persons whose licenses have been revoked, or to whom reregistration has been refused, may, on subsequent application be licensed, relicensed, or reregistered, according to such rules or regulations as may be prescribed by the board and according to standards prescribed by the board. Suspended licenses are automatically in force at the expiration of thirty days from the date of suspension, but must be reregistered in the normal course if they expire during the period of suspension. [1975 1st ex.s. c 97 § 2; 1970 ex.s. c 57 § 12.]

18.52.130 Reciprocity. Upon receipt of an application fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended and an annual license fee, the director may issue a nursing home administrator's license, without examination, to any person who holds a current license as a nursing home administrator from another jurisdiction: *Provided*, That the board finds that the standards for licensing in such other jurisdiction are at least the substantial equivalent of those prevailing in this state, and that the applicant is otherwise qualified. In the event that there is developed a nationally recognized standard for the licensing of nursing home administrators which is in fact utilized in licensing procedures on a reasonably uniform basis the board may by rule or regulation provide for granting reciprocal licensing on a showing of compliance with such standard. [1975 1st ex.s. c 30 § 55; 1970 ex.s. c 57 § 13.]

Chapter 18.53 OPTOMETRY

Sections	
18.53.005	Legislative finding and declaration.
18.53.010	Definition.
18.53.020	Licensing required.
18.53.040	Exemptions—Exceptions—Limitation.
18.53.050	Certificate renewal—Suspension, revocation for failure to pay—Optometry account.
18.53.060	License applicants—Eligibility—Qualifications—Examinations—Exception.
18.53.070	Application fees (as amended by 1975 1st ex.s. c 30).
18.53.070	Application and license fees (as amended by 1975 1st ex.s. c 69).
18.53.090	Repealed.
18.53.100	Revocation of license—Grounds.
18.53.140	Unlawful acts—Penalty.
18.53.155	Injunction to restrain violations.
18.53.190	Discrimination prohibited—Application of law.
18.53.200	Privileged communications.
18.53.911	Severability—1975 1st ex.s. c 69.

18.53.005 Legislative finding and declaration. The legislature finds and declares that the practice of optometry is a learned profession and affects the health, welfare and safety of the people of this state, and should be regulated in the public interest and limited to

qualified persons licensed under the provisions of *this 1975 amendatory act. [1975 1st ex.s. c 69 § 1.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 69] consists of RCW 18.53.005, 18.53.155, 18.53.200, 18.53.911, amendments to RCW 18.53.010, 18.53.020, 18.53.040, 18.53.060, 18.53.070, 18.53.100, 18.53.140, 18.53.190, 18.54.050, 18.54.070, 18.54.080, 18.54.140 and the repeal of RCW 18.53.090.

18.53.010 Definition. The practice of optometry is defined as the examination of the human eye, the examination and ascertaining any defects of the human vision system and the analysis of the process of vision. The practice of optometry may include, but not necessarily be limited to, the following:

(1) The employment of any objective or subjective means or method and the use of any diagnostic instruments or devices for the examination or analysis of the human vision system, the measurement of the powers or range of human vision, or the determination of the refractive powers of the human eye or its functions in general; and

(2) The prescription and fitting of lenses, prisms, therapeutic or refractive contact lenses and the adaption or adjustment of frames and lenses used in connection therewith; and

(3) The prescription and provision of visual therapy, therapeutic aids and other optical devices; and

(4) The ascertainment of the perceptive, neural, muscular or pathological condition of the visual system; and

(5) The adaptation of prosthetic eyes. [1975 1st ex.s. c 69 § 2; 1919 c 144 § 1; RRS § 10147. Prior: 1909 c 235 § 1.]

18.53.020 Licensing required. It shall be unlawful for any person to practice optometry as above defined in the state of Washington without first obtaining a license from the director of motor vehicles. [1975 1st ex.s. c 69 § 3; 1919 c 144 § 2; RRS § 10148. Prior: 1909 c 235 § 5.]

18.53.040 Exemptions—Exceptions—Limitation. Nothing in this chapter shall be construed to pertain in any manner to the practice of any regularly qualified oculist or physician, who is regularly licensed to practice medicine in the state of Washington, or to any person who is regularly licensed to practice as a dispensing optician in the state of Washington, nor to any person who in the regular course of trade, sells or offers for sale, spectacles or eyeglasses as regular merchandise without pretense of adapting them to the eyes of the purchaser, and not in evasion of this chapter: *Provided*, That any such regularly qualified oculist or physician or other person shall be subject to the provisions of subdivisions (10) through (15) of RCW 18.53.140, in connection with the performance of any function coming within the definition of the practice of optometry as defined in this chapter: *Provided further, however*, That in no way shall this section be construed to permit a dispensing optician to practice optometry as defined in *this 1975 amendatory act. [1975 1st ex.s. c 69 § 15; 1937 c 155 § 3; 1919 c 144 § 15; Rem. Supp. 1937 § 10159. Prior: 1909 c 235 § 13.]

***Reviser's note:** "this 1975 amendatory act", see note following RCW 18.53.005.

18.53.050 Certificate renewal—Suspension, revocation for failure to pay—Optometry account. During the month of January of each year, every registered optometrist shall pay to the state treasurer a renewal fee, to be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and failure to pay such fee within the prescribed time shall cause the suspension of his certificate. The state treasurer shall place two dollars and forty cents from each renewal fee into the general fund and shall place the balance into an optometry account which is hereby created for the enforcement of this chapter. Any residue in such account shall be accumulated and shall not revert to the general fund at the end of any biennium.

In the event of failure to pay the renewal fee, the director shall mail a notice of such suspension to the last known post office address of the holder between the first and fifth days of February, March, and April next following and if the fee is not paid by May 1st the director may declare the certificate revoked and immediately notify the county clerk of the county in which the certificate is recorded, and the clerk shall mark his records accordingly. [1975 1st ex.s. c 30 § 56; 1971 ex.s. c 266 § 10; 1955 c 275 § 1; 1919 c 144 § 13; RRS § 10158.]

18.53.060 License applicants—Eligibility—Qualifications—Examinations—Exception. From and after January 1, 1940, in order to be eligible for examination for registration, a person shall be a citizen of the United States of America, who shall have a preliminary education of or equal to four years in a state accredited high school and has completed a full attendance course in a regularly chartered school of optometry maintaining a standard which is deemed sufficient and satisfactory by the optometry board, who is a person of good moral character, who is not afflicted with any contagious or infectious disease, who has a visual acuity in at least one eye, of a standard known as 20/40 under correction: *Provided*, That from and after January 1, 1975, in order to be eligible for examination for a license, a person shall have the following qualifications:

(1) Be a graduate of a state accredited high school or its equivalent;

(2) Have a diploma or other certificate of completion from an accredited college of optometry or school of optometry, maintaining a standard which is deemed sufficient and satisfactory by the optometry board, conferring its degree of doctor of optometry or its equivalent, maintaining a course of four scholastic years in addition to preprofessional college level studies, and teaching substantially all of the following subjects: General anatomy, anatomy of the eyes, physiology, physics, chemistry, pharmacology, biology, bacteriology, general pathology, ocular pathology, ocular neurology, ocular myology, psychology, physiological optics, optometrical mechanics, clinical optometry, visual field

charting and orthoptics, general laws of optics and refraction and use of the ophthalmoscope, retinoscope and other clinical instruments necessary in the practice of optometry;

- (3) Be of good moral character; and
- (4) Have no contagious or infectious disease.

Such person shall file an application for an examination and license with said board at any time thirty days prior to the time fixed for such examination, or at a later date if approved by the board, and such application must be on forms approved by the board, and properly attested, and if found to be in accordance with the provisions of this chapter shall entitle the applicant upon payment of the proper fee, to take the examination prescribed by the board. Such examination shall not be out of keeping with the established teachings and adopted textbooks of the recognized schools of optometry, and shall be confined to such subjects and practices as are recognized as essential to the practice of optometry. All candidates without discrimination, who shall successfully pass the prescribed examination, shall be registered by the board and shall, upon payment of the proper fee, be issued a license. The optometry board, at its discretion, may waive all or a portion of the written examination for any applicant who has satisfactorily passed the examination given by the National Board of Examiners in Optometry. Any license to practice optometry in this state issued by the director, and which shall be in full force and effect at the time of passage of *this 1975 amendatory act, shall be continued. [1975 1st ex.s. c 69 § 4; 1937 c 155 § 1; 1919 c 144 § 5; Rem. Supp. 1937 § 10150. Prior: 1909 c 235 § 7. Formerly RCW 18.53.060 and 18.53.080.]

***Reviser's note:** "this 1975 amendatory act", see following RCW 18.53.005.

18.53.070 Application fees (as amended by 1975 1st ex.s. c 30). The fees for application for examination and for issuing a certificate of registration shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which shall be paid to the director as he shall prescribe. [1975 1st ex.s. c 30 § 57; 1919 c 144 § 9; RRS § 10151. Prior: 1909 c 235 § 7.]

18.53.070 Application and license fees (as amended by 1975 1st ex.s. c 69). The fee for application for examination shall be fifteen dollars and the fee for issuing a license shall be the same as the annual renewal fee set forth in RCW 18.53.050 as the same now exists or is hereafter amended, which shall be paid to the director as he shall prescribe. [1975 1st ex.s. c 69 § 5; 1919 c 144 § 9; RRS § 10151. Prior: 1909 c 235 § 7.]

Reviser's note: RCW 18.53.070 was amended twice during the 1975 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 session, see RCW 1.12.025.

18.53.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.53.100 Revocation of license—Grounds. The optometry board may under the provisions of the administrative procedure act, chapter 34.04 RCW, upon presentation of evidence and information by the director, revoke the license of any optometrist for any of the following causes:

- (1) Conviction of any crime involving moral turpitude; or
- (2) Any form of fraud or deceit used in securing a license; or
- (3) Any unprofessional conduct, of a nature likely to deceive or defraud the public; or
- (4) The obtaining of any fee by fraud or misrepresentation; or
- (5) The employing either directly or indirectly of any person or persons commonly known as "cappers" or "steerers" to obtain business; or
- (6) To employ any person to solicit from house to house, or to personally solicit from house to house; or
- (7) The employment of any unlicensed person to perform the work covered by this chapter; or
- (8) Advertisement in any way in which untruthful, improbable or impossible statements are made regarding treatments, cures or values; or
- (9) The use of the term "eye specialist" in connection with the name of such optometrist; or
- (10) For habits of intemperance or habitual drunkenness, addiction to the drug habit, in a manner likely to destroy the accuracy of the work of an optometrist; or
- (11) Affliction with a contagious or infectious disease, or one which is likely to destroy the accuracy of the work of the afflicted; or
- (12) For any cause for which the director or board of optometry might refuse to admit a candidate to his examination; or
- (13) Inability to demonstrate, in a manner satisfactory to the director or the board of optometry, their practical ability to perform any function set forth in RCW 18.53.010 which they utilize in their practice; or
- (14) For the violation of any provision of this chapter or any rules and regulations of the director or the optometry board. [1975 1st ex.s. c 69 § 6; 1919 c 144 § 11; RRS § 10156. Prior: 1909 c 235 §§ 11, 12.]

False advertising: Chapter 9.04 RCW.

Narcotics: Chapter 69.32 RCW.

Powers previously vested in director of licenses under RCW 18.53.100 now vested in optometry board: RCW 18.54.150.

Uniform alcoholism and intoxication treatment act: Chapter 70.96A RCW.

18.53.140 Unlawful acts—Penalty. It shall be unlawful for any person:

- (1) To sell or barter, or offer to sell or barter any license issued by the director; or
- (2) To purchase or procure by barter any license with the intent to use the same as evidence of the holder's qualification to practice optometry; or
- (3) To alter with fraudulent intent in any material regard such license; or
- (4) To use or attempt to use any such license which has been purchased, fraudulently issued, counterfeited or materially altered as a valid license; or
- (5) To practice optometry under a false or assumed name, or as a representative or agent of any person, firm or corporation with which the licensee has no connection: *Provided*, Nothing in this chapter nor in the optometry law shall make it unlawful for any lawfully licensed optometrist or association of lawfully licensed

optometrists to practice optometry under the name of any lawfully licensed optometrist who may transfer by inheritance or otherwise the right to use such name; or

(6) To wilfully make any false statements in material regard in an application for an examination before the director, or for a license; or

(7) To practice optometry in this state either for himself or any other individual, corporation, partnership, group, public or private entity, or any member of the licensed healing arts without having at the time of so doing a valid license issued by the director of motor vehicles; or

(8) To in any manner barter or give away as premiums either on his own account or as agent or representative for any other purpose, firm or corporation, any eyeglasses, spectacles, lenses or frames; or

(9) To use drugs in the examination of eyes; or

(10) To use advertising whether printed, radio, display, or of any other nature, which is misleading or inaccurate in any material particular, nor shall any such person in any way misrepresent any goods or services (including but without limitation, its use, trademark, grade, quality, size, origin, substance, character, nature, finish, material, content, or preparation) or credit terms, values, policies, services, or the nature or form of the business conducted; or

(11) To advertise the "free examination of eyes," "free consultation," "consultation without obligation," "free advice," or any words or phrases of similar import which convey the impression to the public that eyes are examined free or of a character tending to deceive or mislead the public, or in the nature of "bait advertising;" or

(12) To use an advertisement of a frame or mounting which is not truthful in describing the frame or mounting and all its component parts. Or advertise a frame or mounting at a price, unless it shall be depicted in the advertisement without lenses inserted, and in addition the advertisement must contain a statement immediately following, or adjacent to the advertised price, that the price is for frame or mounting only, and does not include lenses, eye examination and professional services, which statement shall appear in type as large as that used for the price, or advertise lenses or complete glasses, viz.: frame or mounting with lenses included, at a price either alone or in conjunction with professional services; or

(13) To use advertising, whether printed, radio, display, or of any other nature, which inaccurately lays claim to a policy or continuing practice of generally underselling competitors; or

(14) To use advertising, whether printed, radio, display or of any other nature which refers inaccurately in any material particular to any competitors or their goods, prices, values, credit terms, policies or services; or

(15) To use advertising whether printed, radio, display, or of any other nature, which states any definite amount of money as "down payment" and any definite amount of money as a subsequent payment, be it daily, weekly, monthly, or at the end of any period of time; or

(16) To violate any provision of this chapter or any rules and regulations promulgated thereunder. [1975 1st ex.s. c 69 § 7; 1945 c 78 § 1; 1935 c 134 § 1; 1919 c 144 § 7; Rem. Supp. 1945 § 10152. Cf. 1909 c 235 § 5.]

False advertising: Chapter 9.04 RCW.

18.53.155 Injunction to restrain violations. If any person engages in the practice of optometry without possessing a valid license to do so, or if he violates the provisions of RCW 18.53.100 or 18.53.140, the attorney general, any prosecuting attorney, the director, or any citizen of the same county, may maintain an action in the name of the state of Washington to enjoin such person from engaging in practice as an optometrist. The injunction shall not relieve from criminal prosecution, but the remedy by injunction shall be in addition to the liability of such offender to criminal prosecution and to suspension or revocation of his license. [1975 1st ex.s. c 69 § 13.]

18.53.190 Discrimination prohibited—Application of law. RCW 18.53.165 through 18.53.185 shall apply to all agreements, renewals, or contracts issued on or after June 7, 1973.

Health care service contracts having a participant agreement with a majority of the licensed optometrists within its service area may provide benefits to persons or groups of persons through contracts which allow a subscriber to utilize on an equal participation basis the services of any participant provided in the contract, and such contracts shall not be discriminatory. [1975 1st ex.s. c 69 § 8; 1973 c 48 § 6.]

18.53.200 Privileged communications. The information and records of a licensed optometrist pertaining to a patient shall be privileged communications, the same as now or hereafter may exist in the relationship of physician and patient and shall not be released or subjected to disclosure without the consent of the patient or as otherwise required by law. [1975 1st ex.s. c 69 § 14.]

Privileged communications—Physician and patient: RCW 5.60.060.

18.53.911 Severability—1975 1st ex.s. c 69. If any provision of this 1975 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. [1975 1st ex.s. c 69 § 17.]

Reviser's note: This applies to RCW 18.53.005, 18.53.155, 18.53.200, 1975 amendments to RCW 18.53.010, 18.53.020, 18.53.040, 18.53.060, 18.53.070, 18.53.100, 18.53.140, 18.53.190, 18.54.050, 18.54.070, 18.54.080, 18.54.140 and to the repeal of RCW 18.53.090.

Chapter 18.54 OPTOMETRY BOARD

Sections	
18.54.050	Meetings.
18.54.070	Powers and duties—Examinations—Unprofessional conduct—Employment of personnel.
18.54.080	"Unprofessional conduct" defined.
18.54.140	Board may draw on optometry account.

18.54.050 Meetings. The board must meet at least once yearly or more frequently upon call of the chairman or the director of motor vehicles at such times and places as the chairman or the director of motor vehicles may designate by giving three days' notice or as otherwise required by the administrative procedure act, chapter 34.04 RCW as now or hereafter amended. [1975 1st ex.s. c 69 § 9; 1963 c 25 § 5.]

Severability—1975 1st ex.s. c 69: See RCW 18.53.911.

18.54.070 Powers and duties—Examinations—Unprofessional conduct—Employment of personnel. The board has the following powers and duties:

(1) The board shall prepare the necessary lists of examination questions, conduct examinations, either written or oral or partly written and partly oral, and shall certify to the director of motor vehicles all lists, signed by all members conducting the examination, of all applicants for licenses who have successfully passed the examination and a separate list of all applicants for licenses who have failed to pass the examination, together with a copy of all examination questions used, and the written answers to questions on written examinations submitted by each of the applicants.

(2) The director shall investigate all complaints and charges of unprofessional conduct against any licensed optometrist, and the board shall hold hearings to determine whether or not such charges are founded.

(3) The board shall take disciplinary action against any optometrist whom the board finds guilty of unprofessional conduct; and may, under appropriate circumstances, order the revocation or suspension of a license to practice optometry by filing a copy of its findings and conclusions with the director of motor vehicles.

(4) The board may employ stenographic and clerical help, and such other assistance as may be necessary to enforce the provisions of this chapter.

(5) The board shall adopt rules and regulations to promote safety, protection and the welfare of the public, to carry out the purposes of this chapter, to aid the board in the performance of its powers and duties, and to govern the practice of optometry. [1975 1st ex.s. c 69 § 10; 1963 c 25 § 7.]

Severability—1975 1st ex.s. c 69: See RCW 18.53.911.

18.54.080 "Unprofessional conduct" defined. The term "unprofessional conduct" as used in this chapter means and includes the following acts and omissions, or any one or any combination thereof, as follows:

(1) Any one or more of the acts enumerated as grounds for revocation of a license, under the provisions of RCW 18.53.100; or

(2) Any one or more of the acts enumerated as unlawful under the provisions of RCW 18.53.140. [1975 1st ex.s. c 69 § 11; 1963 c 25 § 8.]

Severability—1975 1st ex.s. c 69: See RCW 18.53.911.

18.54.140 Board may draw on optometry account. Notwithstanding any other provisions of law, rule or regulation, the board may draw from the optometry account created and held pursuant to RCW 18.53.050, on

vouchers approved by the director of motor vehicles, so much money as is necessary to carry into effect, to administer, and to enforce the provisions of this chapter. [1975 1st ex.s. c 69 § 12; 1963 c 25 § 14.]

Severability—1975 1st ex.s. c 69: See RCW 18.53.911.

Chapter 18.57 OSTEOPATHY

Sections

18.57.050 Fees—Disposition—Bond—Expenses.
18.57.130 Licenses under preexisting laws or other states—Osteopathy defined—Fees.

Actions for negligence against, evidence and proof required to prevail: RCW 4.24.290.

18.57.050 Fees—Disposition—Bond—Expenses. Each applicant on making application shall pay the director a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended which shall be paid to the state treasurer by said director and used to defray the expenses and compensation of said director. In case the applicant's credentials are insufficient, or in case he does not desire to take the examination, the sum of fifteen dollars shall be returned. All persons licensed to practice osteopathy or osteopathy and surgery within this state who are engaged in active practice shall pay on or before the first day of May of each year to the director a renewal license fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Licenses not so renewed will not be valid. The director shall thirty days or more before May 1st of each year mail to all active practitioners of osteopathy or osteopathy and surgery in this state at their last known address a notice of the fact that the renewal fee will be due on or before the first of May. Nothing in this chapter shall be construed so as to require that the receipt shall be recorded as original licenses are required to be recorded. [1975 1st ex.s. c 30 § 58; 1971 ex.s. c 266 § 11; 1919 c 4 § 6; RRS § 10058. Cf. 1909 c 192 § 7. Formerly RCW 18.57.050 and 18.57.120.]

18.57.130 Licenses under preexisting laws or other states—Osteopathy defined—Fees. Any person who holds a license authorizing him to practice osteopathy from a board of medical examiners heretofore existing, under the provision of any laws of this state, past or present, shall be entitled to practice osteopathy in this state the same as if issued under this chapter, and any person, who shall have been examined and licensed to practice osteopathy by a state board of osteopathic examiners of another state or the duly constituted authorities of another state authorized to issue licenses to practice osteopathy upon examination, shall be entitled to receive a license to practice osteopathy in this state upon the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the state treasurer and filing a copy of his license in such other state, duly certified by the authorities granting the license to be a full, true, and correct copy thereof, and certifying also that the standard of

requirements adopted by such authorities as provided by the law of such state is equal to that provided for by the provisions of this chapter: *Provided*, That no license shall issue without examination to any person who has previously failed in an examination held in this state: *Provided, further*, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this chapter: *Provided, further*, That the term osteopathy, as used in this chapter, shall be held to be the practice and procedure as taught and recognized by the regular colleges of osteopathy: *Provided, further*, That no one shall be permitted to practice surgery who has not a license therefor. [1975 1st ex.s. c 30 § 59; 1921 c 82 § 1; 1919 c 4 § 17; RRS § 10069. Formerly RCW 18.57.010, 18.57.040, part, and 18.57.130.]

Chapter 18.57A OSTEOPATHIC PHYSICIANS' ASSISTANTS

Sections

18.57A.040 Osteopathic physician's application for assistant—
Fee—Approval or rejection by board—Hearing.

18.57A.040 Osteopathic physician's application for assistant—Fee—Approval or rejection by board—Hearing. No osteopathic physician practicing in this state shall utilize the services of an osteopathic physician's assistant without the approval of the board.

Any osteopathic physician licensed in this state may apply to the board for permission to use the services of an osteopathic physician's assistant. The application shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, shall detail the manner and extent to which the physician's assistant would be used and supervised, shall detail the education, training, and experience of the osteopathic physician's assistant and shall provide such other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of the osteopathic physician's assistant, and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed annually upon payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Whenever it appears to the board that an osteopathic physician's assistant is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with RCW 18.57.180. [1975 1st ex.s. c 30 § 60; 1971 ex.s. c 30 § 10.]

Chapter 18.64 PHARMACISTS

Sections

18.64.300 Pharmacist members of committees to evaluate credentials and qualifications of pharmacists—Immunity from civil suit.
18.64.301 Pharmacists filing charges or presenting evidence before pharmaceutical society—Immunity from civil suit.
18.64.302 Records of pharmaceutical society not subject to civil process.

18.64.300 Pharmacist members of committees to evaluate credentials and qualifications of pharmacists—Immunity from civil suit. See RCW 4.24.240.

18.64.301 Pharmacists filing charges or presenting evidence before pharmaceutical society—Immunity from civil suit. See RCW 4.24.250, 4.24.260.

18.64.302 Records of pharmaceutical society not subject to civil process. See RCW 4.24.250.

Chapter 18.71 PHYSICIANS

Sections

18.71.010 Definitions.
18.71.011 Definition of practice of medicine—Engaging in practice of chiropractic prohibited, when.
18.71.015 Washington state board of medical examiners.
18.71.020 Licensing required—Penalties, enforcement—Fines to state treasurer—Remittance of justice court fines, fees, penalties and forfeitures.
18.71.025 Injunction to prevent practice until license secured.
18.71.030 Exemptions.
18.71.040 Application fee (as amended by 1975 1st ex.s. c 30).
18.71.040 Application, examination fees (as amended by 1975 1st ex.s. c 171).
18.71.050 Application—Eligibility requirements—United States and Canadian graduates.
18.71.051 Application—Eligibility requirements—Foreign graduates.
18.71.055 Schools of medicine—Requirements for approval.
18.71.060 Record of proceedings of board and of applications.
18.71.070 Examination—Record.
18.71.080 License—Annual renewal (as amended by 1975 1st ex.s. c 30).
18.71.080 License—Annual renewal—Continuing education requirement—Failure to renew, procedure (as amended by 1975 1st ex.s. c 171).
18.71.090 License without examination—Reciprocity—National board examinees—Fee (as amended by 1975 1st ex.s. c 30).
18.71.090 License without examination—Reciprocity—National board examinees—Fee (as amended by 1975 1st ex.s. c 171).
18.71.095 Limited licenses.
18.71.096 Repealed.
18.71.145 Denial of license application or renewal—Notification—Right to hearing.
18.71.165 Board of medical examiners—Immunity from suit.
18.71.180 Denial of license—Statement of grounds—Record.
18.71.195 Suspension of physician's license for mental incompetency or illness, physical condition—Hearing—Examination—Reinstatement—Grounds.
18.71.220 Rendering emergency care—Immunity of physician or hospital from civil liability.
18.71.900 Repealed.
18.71.941 Severability—1975 1st ex.s. c 171.

Actions for negligence against, evidence and proof required to prevail: RCW 4.24.290.

Medical practice investigator, powers and duties: RCW 18.71A.070.

18.71.010 Definitions. The following terms used in this chapter shall have the meanings set forth in this section unless the context clearly indicates otherwise:

- (1) "Board" means the board of medical examiners.
- (2) "Director" means the director of the department of motor vehicles.
- (3) "Resident physician" means an individual who has graduated from a school of medicine which meets the requirements set forth in RCW 18.71.055 and is serving a period of postgraduate clinical medical training sponsored by a college or university in this state or by a hospital accredited by this state. For purposes of this chapter, the term shall include individuals designated as intern or medical fellow. [1975 1st ex.s. c 171 § 1; 1961 c 284 § 1; 1957 c 60 § 2. Prior: 1947 c 168 § 1, part; 1919 c 134 § 3, part; 1909 c 192 § 6, part; Rem. Supp. 1947 § 10008, part; prior: 1905 c 41 § 1, part; 1901 c 42 § 1, part; 1890 p 115 § 3, part; Code 1881 § 2285, part.]

Uniform anatomical gift act: Chapter 68.08 RCW.

18.71.011 Definition of practice of medicine—Engaging in practice of chiropractic prohibited, when. A person is practicing medicine if he does one or more of the following:

- (1) Offers or undertakes to diagnose, cure, advise or prescribe for any human disease, ailment, injury, infirmity, deformity, pain or other condition, physical or mental, real or imaginary, by any means or instrumentality;
- (2) Administers or prescribes drugs or medicinal preparations to be used by any other person;
- (3) Severs or penetrates the tissues of human beings;
- (4) Uses on cards, books, papers, signs or other written or printed means of giving information to the public, in the conduct of any occupation or profession pertaining to the diagnosis or treatment of human disease or conditions the designation "doctor of medicine", "physician", "surgeon", "m.d." or any combination thereof unless such designation additionally contains the description of another branch of the healing arts for which a person has a license: *Provided* however, That a person licensed under this chapter shall not engage in the practice of chiropractic as defined in RCW 18.25.005. [1975 1st ex.s. c 171 § 15.]

18.71.015 Washington state board of medical examiners. There is hereby created a board of medical examiners consisting of six individuals licensed to practice medicine in the state of Washington and one individual who is not a physician, to be known as the Washington state board of medical examiners.

The board shall be appointed by the governor. The members of the first board shall be appointed within thirty days after March 21, 1961, to serve the following terms: One member for one year, one member for two years, one member for three years, one member for four years, one member for five years, from the date of their appointment, or until their successors are duly appointed and qualified. On expiration of the term of any member, the governor shall appoint for a period of five years an individual of similar qualifications to take the

place of such member. Each member shall hold office until the expiration of the term for which such member is appointed or until a successor shall have been appointed and shall have qualified.

Each member of the board shall be a citizen of the United States, must be an actual resident of this state, and, if a physician, must have been licensed to practice medicine in this state for at least five years.

The board shall meet as soon as practicable after appointment and elect a chairman and a secretary from its members. Meetings shall be held at least four times a year and at such place as the board shall determine and at such other times and places as the board deems necessary.

It shall require the affirmative vote of a majority of the members of the board to carry any motion or resolution, to adopt any rule, to pass any measure, or to authorize or deny the issuance of any certificate.

Each member of the board shall receive the sum of forty dollars per diem when actually attending to the work of the board or any of its committees and for the time spent in necessary travel; and in addition thereto shall be reimbursed for actual traveling, incidental and clerical expenses necessarily incurred in carrying out the duties of the board. Any such expenses shall be paid from funds appropriated to the department of motor vehicles.

Any member of the board may be removed by the governor for neglect of duty, misconduct or malfeasance or misfeasance in office.

Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the governor. [1975 1st ex.s. c 171 § 2; 1961 c 284 § 2.]

18.71.020 Licensing required—Penalties, enforcement—Fines to state treasurer—Remittance of justice court fines, fees, penalties and forfeitures. Any person who shall practice or attempt to practice or hold himself out as practicing medicine in this state, without having, at the time of so doing, a valid, unrevoked license as provided in this chapter, shall be guilty of a gross misdemeanor: *Provided*, That nothing in this section shall be so construed as to prohibit or penalize emergency life-saving service rendered by a physician's trained mobile intensive care paramedic, as defined in RCW 18.71.200, if such emergency life-saving service be rendered under the responsible supervision and control of a licensed physician. In each such conviction the fine shall be paid, when collected, to the state treasurer: *Provided*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. The director is authorized to prosecute all persons guilty of a violation of the provisions of this chapter. [1975 1st ex.s. c 171 § 3; 1971 ex.s. c 305 § 1; 1969 ex.s. c 199 § 18; 1961 c 284 § 3; 1919 c 134 § 8; 1909 c 192 § 14; RRS § 10018. Prior: 1890 p 119 § 8; Code 1881 § 2290.]

Persons licensed under prior laws: "Any person who holds a license from the board of medical examiners heretofore existing, under the provisions of any laws of this state, past or present, shall be entitled to

practice medicine and surgery in this state the same as if issued under this act: *Provided, however*, That all licenses herein mentioned may be revoked for unprofessional conduct, in the same manner and upon the same grounds as if issued under this act." [1909 c 192 § 17.]

18.71.025 Injunction to prevent practice until license secured. The attorney general, each prosecuting attorney, the director, the state board of medical examiners, or any citizen of the state may in accordance with the laws of this state governing injunctions, maintain an action in the name of this state to enjoin such person from engaging in the practice of medicine as herein defined until a valid license to practice medicine be secured: *Provided*, That such injunction shall not relieve such person so practicing medicine without a valid license from criminal prosecution therefor, but such remedy by injunction shall be in addition to the liability of such offender to criminal prosecution. [1975 1st ex.s. c 171 § 4; 1961 c 284 § 10.]

18.71.030 Exemptions. Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The practice of dentistry, osteopathy, osteopathy and surgery, nursing, chiropractic, podiatry, optometry, drugless therapeutics or any other healing art licensed under the methods or means permitted by such license;

(4) The practice of medicine in this state by any commissioned medical officer serving in the armed forces of the United States or public health service or any medical officer on duty with the United States veterans administration while such medical officer is engaged in the performance of the duties prescribed for him by the laws and regulations of the United States;

(5) The practice of medicine by any practitioner licensed by another state or territory in which he resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(6) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the board: *Provided, however*, That the performance of such services be only pursuant to a regular course of instruction or assignments from his instructor, or that such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(7) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state: *Provided*, That the performance of such services shall be only pursuant to his duties as a trainee;

(8) The practice of medicine by a person who is regularly enrolled in a physician's assistant program approved by the board: *Provided, however*, That the

performance of such services be only pursuant to a regular course of instruction in said program: *And provided further*, That such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(9) The practice of medicine by a registered physician's assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(10) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof. [1975 1st ex.s. c 171 § 5; 1973 1st ex.s. c 110 § 1; 1961 c 284 § 4; 1919 c 134 § 12; 1909 c 192 § 19; RRS § 10024.]

Administering drugs, inoculations, etc., by registered nurses permitted: RCW 18.88.290.

18.71.040 Application fee (as amended by 1975 1st ex.s. c 30). Every applicant for a certificate to practice medicine and surgery shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 61; 1955 c 202 § 35. Prior: 1941 c 166 § 1, part; 1913 c 82 § 1, part; 1909 c 192 § 7, part; Rem. Supp. 1941 § 10010-1, part.]

18.71.040 Application, examination fees (as amended by 1975 1st ex.s. c 171). Every applicant for a license to practice medicine shall pay an application fee of twenty-five dollars. In addition to the application fee provided for herein, every applicant for licensure by examination shall pay an examination fee of one hundred dollars, which sum shall be refunded in the event the board determines that the applicant is not eligible for examination. In addition to the application fee provided for herein, every applicant for licensure by reciprocity or waiver of examination shall pay a fee of fifty dollars. The director shall charge a fee of fifteen dollars for license certifications. [1975 1st ex.s. c 171 § 6; 1955 c 202 § 35. Prior: 1941 c 166 § 1, part; 1913 c 82 § 1, part; 1909 c 192 § 7, part; Rem. Supp. 1941 § 10010-1, part.]

Reviser's note: RCW 18.71.040 was amended twice during the 1975 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 session, see RCW 1.12.025.

Basic sciences examination fee: RCW 43.74.040.

18.71.050 Application—Eligibility requirements—United States and Canadian graduates. Each applicant who has graduated from a school of medicine located in any state, territory or possession of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the board on a form prepared by the director with the approval of the board. Each applicant shall furnish proof satisfactory to the board of the following:

(1) That he has attended and graduated from a school of medicine approved by the board;

(2) That he has completed one year of postgraduate medical training in a program acceptable to the board;

(3) That he is of good moral character;

(4) That he is physically and mentally capable of safely carrying on the practice of medicine. The board may require any applicant to submit to such examination or examinations as it deems necessary to determine an applicant's physical and/or mental capability to safely practice medicine;

(5) That his license to practice medicine is not at the time of the application revoked or suspended by any licensing agency and that he has not been guilty of any conduct which would constitute grounds for refusal, revocation or suspension of such license under the laws of the state of Washington.

Nothing in this section shall be construed as prohibiting the board from requiring such additional information from applicants as it deems necessary. [1975 1st ex.s. c 171 § 7; 1961 c 284 § 5; 1957 c 60 § 3. Prior: 1947 c 168 § 1, part; 1919 c 134 § 3, part; 1909 c 192 § 6, part; Rem. Supp. 1947 § 10008, part; prior: 1905 c 41 § 1, part; 1901 c 42 § 1, part; 1890 p 115 § 3, part; Code 1881 § 2285, part.]

18.71.051 Application—Eligibility requirements—Foreign graduates. Applicants for licensure to practice medicine who have graduated from a school of medicine located outside of the states, territories and possessions of the United States, the District of Columbia, or the Dominion of Canada, shall file an application for licensure with the board on a form prepared by the director with the approval of the board. Each applicant shall furnish proof satisfactory to the board of the following:

(1) That he has completed in a school of medicine a resident course of professional instruction equivalent to that required in this chapter for applicants generally;

(2) That he meets all the requirements which must be met by graduates of the United States and Canadian school of medicine except that he need not have graduated from a school of medicine approved by the board;

(3) That he has satisfactorily passed the examination given by the educational council for foreign medical graduates or has met the requirements in lieu thereof as set forth in rules and regulations adopted by the board;

(4) That he has the ability to read, write, speak, understand, and be understood in the English language. [1975 1st ex.s. c 171 § 16.]

18.71.055 Schools of medicine—Requirements for approval. The board may approve any school of medicine which is located in any state, territory or possession of the United States, the District of Columbia, or in the Dominion of Canada, provided that it:

(1) Requires collegiate instruction which includes courses deemed by the board to be prerequisites to medical education;

(2) Provides adequate instruction in the following subjects: Anatomy, biochemistry, microbiology and immunology, pathology, pharmacology, physiology, anaesthesiology, dermatology, gynecology, internal medicine, neurology, obstetrics, ophthalmology, orthopedic surgery, otolaryngology, pediatrics, physical medicine and rehabilitation, preventive medicine and public health, psychiatry, radiology, surgery and urology and such other subjects determined by the board;

(3) Provides clinical instruction in hospital wards and out-patient clinics under guidance.

Approval may be withdrawn by the board at any time a medical school ceases to comply with one or more of the requirements of this section.

(4) Nothing in this section shall be construed to authorize the board to approve a school of osteopathy, osteopathy and surgery or osteopathic medicine, for purposes of qualifying an applicant to be licensed under this chapter by direct licensure, reciprocity or otherwise. [1975 1st ex.s. c 171 § 8; 1961 c 284 § 6; 1957 c 60 § 4.]

18.71.060 Record of proceedings of board and of applications. Said board shall keep an official record of all its proceedings, a part of which record shall consist of a register of all applicants for licensure under this chapter, with the result of each application. Said record shall be evidence of all the proceedings of said board which are set forth therein. [1975 1st ex.s. c 171 § 9; 1961 c 284 § 7; 1909 c 192 § 8; RRS § 10011.]

18.71.070 Examination—Record. With the exception of those applicants granted licensure through the provisions of RCW 18.71.090 or 18.71.095, applicants for licensure must successfully complete an examination administered by the board to determine their professional qualifications. The board shall prepare and give, or approve the preparation and giving of, an examination which shall cover those general subjects and topics, a knowledge of which is commonly and generally required of candidates for the degree of doctor of medicine conferred by approved colleges or schools of medicine in the United States. Notwithstanding any other provision of law, the board shall have the sole responsibility for determining the proficiency of applicants under this chapter, and, in so doing, may waive any prerequisite to licensure not set forth in this chapter.

The board may by rule establish the passing grade for the examination, and in so doing may grant credit based on experience. In no event, however, shall credit for experience exceed five percent of the total possible grade.

Examination results shall be part of the records of the board and shall be permanently kept with the applicant's file. [1975 1st ex.s. c 171 § 10; 1961 c 284 § 8; 1919 c 134 § 4; 1909 c 192 § 6; RRS § 10009.]

18.71.080 License—Annual renewal (as amended by 1975 1st ex.s. c 30). Every person licensed to practice medicine and surgery in this state shall register with the director of department of motor vehicles annually, and pay an annual renewal registration fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, on or before the first day of July of each year, and thereupon the license of such person shall be renewed for a period of one year. Any failure to register and pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the director, and payment to the state of a penalty fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, together with all delinquent annual license renewal fees. [1975 1st ex.s. c 30 § 62; 1971 ex.s. c 266 § 12; 1955 c 202 § 36. Prior: 1941 c 166 § 1, part; 1913 c 82 § 1, part; 1909 c 192 § 7, part; Rem. Supp. 1941 § 10010-1, part.]

18.71.080 License—Annual renewal—Continuing education requirement—Failure to renew, procedure (as amended by 1975 1st ex.s. c 171). Every person licensed to practice medicine in this state shall register with the director of department of motor vehicles annually, and pay an annual renewal registration fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, on or before the first day of July of each year. The board may establish rules and regulations governing mandatory continuing education

requirements which shall be met by physicians applying for renewal of licenses. Any failure to register and pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon written application therefor to the director, and payment to the state of a penalty of ten dollars, together with all delinquent annual license renewal fees: *Provided, however,* That any person who fails to renew his license for a period of three years, shall in no event be entitled to renew his license under this section. Such a person in order to obtain a license to practice medicine in this state, shall file an original application as provided for in this chapter, along with the requisite fee therefor. The board, in its sole discretion, may permit such applicant to be licensed without examination if it is satisfied that such applicant meets all the requirements for licensure in this state, and is competent to engage in the practice of medicine. [1975 1st ex.s. c 171 § 11; 1971 ex.s. c 266 § 12; 1955 c 202 § 36. Prior: 1941 c 166 § 1, part; 1913 c 82 § 1, part; 1909 c 192 § 7, part; Rem. Supp. 1941 § 10010-1, part.]

Reviser's note: RCW 18.71.080 was amended twice in the 1975 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 session, see RCW 1.12.025.

18.71.090 License without examination—Reciprocity—National board examinees—Fee (as amended by 1975 1st ex.s. c 30). Any applicant who has been examined and licensed under the laws of another state, which through a reciprocity provision in its laws, similarly accredits the holders of certificates from the proper authorities of this state to the full privileges of practice within its borders or an applicant who has satisfactorily passed examinations given by the national board of medical examiners may, in the discretion of the board, be granted a license without examination on the payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the state treasurer: *Provided,* That he has not previously failed to pass an examination held in this state. He must file with the board a copy of his license certified by the proper authorities of the issuing state to be a full, true copy thereof, and must show that the standards, eligibility requirements, and examinations of that state are at least equal in all respects to those of this state. [1975 1st ex.s. c 30 § 63; 1961 c 284 § 9; 1957 c 60 § 5; 1919 c 134 § 11; RRS § 10023.]

18.71.090 License without examination—Reciprocity—National board examinees—Fee (as amended by 1975 1st ex.s. c 171). Any applicant who meets the requirements of RCW 18.71.050 and has been licensed under the laws of another state, territory, or possession of the United States, or of any province of Canada, or an applicant who has satisfactorily passed examinations given by the national board of medical examiners may, in the discretion of the board, be granted a license without examination on the payment of the fees required by this chapter: *Provided,* That he must file with the board a copy of his license certified by the proper authorities of the issuing state to be a full, true copy thereof, and must show that the standards, eligibility requirements and examinations of that state are at least equal in all respects to those of this state. [1975 1st ex.s. c 171 § 12; 1961 c 284 § 9; 1957 c 60 § 5; 1919 c 134 § 11; RRS § 10023.]

Reviser's note: RCW 18.71.090 was amended twice during the 1975 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 session, see RCW 1.12.025.

18.71.095 Limited licenses. The board may, without examination, issue a limited license to persons who possess the qualifications set forth herein:

(1) The board may, upon the written request of the secretary of the department of social and health services, issue a limited license to practice medicine in this state to persons who have been accepted for employment by the department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or

territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with patients, residents, or inmates of the state institutions under the control and supervision of the secretary of the department of social and health services.

(2) The board may issue a limited license to practice medicine in this state to persons who have been accepted for employment by a county or city health department as physicians; who are licensed to practice medicine in another state of the United States or in the country of Canada or any province or territory thereof; and who meet all of the qualifications for licensure set forth in RCW 18.71.050.

Such license shall permit the holder thereof to practice medicine only in connection with his or her duties in employment with the city or county health department.

(3) Upon receipt of a completed application showing that the applicant meets all of the requirements for licensure set forth in RCW 18.71.050 except for completion of one year of postgraduate medical training, and that the applicant has been appointed as a resident physician in a program of postgraduate clinical training in this state approved by the board, the board may issue a limited license to a resident physician. Such license shall permit the resident physician to practice medicine only in connection with his duties as a resident physician and shall not authorize him to engage in any other form of practice. Each resident physician shall practice medicine only under the supervision and control of a physician licensed in this state, but such supervision and control shall not be construed to necessarily require the personal presence of the supervising physician at the place where services are rendered.

All persons licensed under this section shall be subject to the jurisdiction of the medical disciplinary board to the same extent as other members of the medical profession, in accordance with chapter 18.72 RCW and in addition, the limited license to practice medicine in the state of Washington may be revoked by the medical disciplinary board after a hearing has been held in accordance with the provisions set forth in chapter 18.72 RCW, and determination made by the medical disciplinary board that such licensee has violated the limitations set forth herein.

Persons applying for licensure pursuant to this section shall pay an application fee of twenty-five dollars and, in the event the license applied for is issued, a license fee at the rate provided for renewals of licenses generally. Licenses issued hereunder may be renewed annually pursuant to the provisions of RCW 18.71.080: *Provided,* That a limited license for a resident physician may not be renewed until such resident physician has successfully completed either all parts of the examination given by the national board of medical examiners or an equivalent examination approved by the board. Interim approval may be granted until the result of such examination becomes available. Any person who obtains a limited license pursuant to this section may,

without an additional application fee, apply for licensure under this chapter. [1975 1st ex.s. c 171 § 13; 1973 1st ex.s. c 4 § 1; 1967 c 138 § 1; 1965 c 29 § 1; 1959 c 189 § 1.]

18.71.096 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.71.145 Denial of license application or renewal—Notification—Right to hearing. If the board determines to deny an application for licensure, or renewal, it shall forthwith notify the applicant by mailing to him at the address listed on his application a concise statement of the reasons for such denial. Such an applicant may request a hearing within thirty days of the date such notification is mailed and such request shall be granted if it appears that the board, under any circumstances which might be shown at such a hearing, has the power to reverse its decision. All such hearings shall be held in accordance with the administrative procedure act (chapter 34.04 RCW). [1975 1st ex.s. c 171 § 17.]

18.71.165 Board of medical examiners—Immunity from suit. Members of the board shall be immune from suit in any other action, civil or criminal, based upon licensure proceedings or other official acts performed in good faith as members of the board. [1975 1st ex.s. c 171 § 18.]

18.71.180 Denial of license—Statement of grounds—Record. In case of the denial of a license, the board shall file a brief and concise statement of the grounds and reasons therefor in the office of the director of the department of motor vehicles, which shall remain of record therein. [1975 1st ex.s. c 171 § 14; 1955 c 202 § 44. Prior: (i) 1919 c 134 § 7, part; RRS § 10014, part. (ii) 1909 c 192 § 12; RRS § 10016.]

18.71.195 Suspension of physician's license for mental incompetency or illness, physical condition—Hearing—Examination—Reinstatement—Grounds. See RCW 18.72.275.

18.71.220 Rendering emergency care—Immunity of physician or hospital from civil liability.

Persons rendering emergency care, immunity from liability: RCW 4.24.300.

18.71.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

18.71.941 Severability—1975 1st ex.s. c 171. If any section, sentence, clause, or phrase of this 1975 amendatory act should be held to be invalid or unconstitutional, the invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this 1975 amendatory act. [1975 1st ex.s. c 171 § 19.]

Chapter 18.71A PHYSICIANS' ASSISTANTS

Sections

- 18.71A.010 Definitions.
18.71A.040 Physician's application for physician's assistant—
Fee—Approval or rejection by board—Hearing.
18.71A.070 Medical practice investigator—Appointment—
Powers and duties.

18.71A.010 Definitions. (1) "Physician's assistant" means:

(a) A person who is enrolled in, or who has satisfactorily completed, a board approved training program designed to prepare persons to practice medicine to a limited extent; or

(b) A person who is a university medical graduate of a foreign medical school or college.

(2) "Board" means the board of medical examiners.

(3) "Practice medicine" shall have the meaning defined in *RCW 18.71.010. [1975 1st ex.s. c 190 § 1; 1971 ex.s. c 30 § 1.]

***Reviser's note:** For definition of "practice medicine" see RCW 18.71.011.

Severability—1971 ex.s. c 30: "If any provision of this 1971 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 30 § 13.] This applies to this chapter and to chapter 18.57A RCW.

18.71A.040 Physician's application for physician's assistant—Fee—Approval or rejection by board—Hearing. No physician practicing in this state shall utilize the services of a physician's assistant without the approval of the board.

Any physician licensed in this state may apply to the board for permission to use the services of a physician's assistant. The application shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, shall detail the manner and extent to which the physician's assistant would be used and supervised, shall detail the education, training, and experience of the physician's assistant and shall provide such other information in such form as the board may require.

The board may approve or reject such applications. In addition, the board may modify the proposed utilization of the physician's assistant, and approve the application as modified. No such approval shall extend for more than one year, but approval once granted may be renewed annually upon payment of a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Whenever it appears to the board that a physician's assistant is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with RCW 18.71.140. [1975 1st ex.s. c 30 § 64; 1975 1st ex.s. c 190 § 2; 1971 ex.s. c 30 § 4.]

18.71A.070 Medical practice investigator—Appointment—Powers and duties. There shall be appointed by the director of the department of motor

vehicles an agent whose title shall be "medical practice investigator", who shall have the duty and shall be authorized to enter the clinic, office, or premises where a physician's assistant is employed for the purpose of inspecting the registration and utilization of any physician's assistant employed therein. Said investigator may serve and execute any notice or process issued under the authority of this chapter and shall perform any other duty prescribed by the director or the board, including assisting other agencies in enforcing the provisions of the law regulating the practice of medicine: *Provided*, That funds must be included in the department's 1975-77 operational budget for this program. [1975 1st ex.s. c 190 § 3.]

Chapter 18.72 MEDICAL DISCIPLINARY BOARD

Sections

- 18.72.030 "Unprofessional conduct" defined.
 18.72.150 Powers and duties.
 18.72.175 Accused to cooperate with board—Failure deemed unprofessional conduct.
 18.72.275 Suspension of physician's license for mental incompetency or illness, physical condition—Hearing—Examination—Reinstatement—Grounds.

18.72.030 "Unprofessional conduct" defined. The term "unprofessional conduct" as used in this chapter and RCW 18.71.120 and 18.71.140 shall mean the following items or any one or combination thereof:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the same be committed in the course of his or her relations as a physician, or otherwise, and whether the same constitutes a crime or not; and if the act constitutes a crime, conviction thereof in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon such conviction, however, the judgment and sentence shall be conclusive evidence at the ensuing disciplinary hearing of the guilt of the respondent physician of the crime described in the indictment or information, and of his or her violation of the statute upon which it is based;

(2) The procuring, or aiding or abetting in procuring a criminal abortion;

(3) Misrepresentation or concealment of a material fact in the obtaining of a license to practice medicine or in reinstatement thereof;

(4) All advertising of medical business which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons and so be harmful or injurious to public morals or safety;

(5) The impersonation of another licensed practitioner;

(6) Habitual intemperance;

(7) The possession, use, prescription for use, or distribution of controlled substances or legend drugs in any way other than for therapeutic purposes;

(8) The offering, undertaking, or agreeing to cure or treat disease by a secret method, procedure, treatment, or medicine, or the treating, operating, or prescribing

for any human condition by a method, means, or procedure which the licensee refuses to divulge upon demand of the board;

(9) Unprofessional conduct as defined in chapter 19.68 RCW;

(10) Aiding or abetting an unlicensed person to practice medicine;

(11) Suspension or revocation of the physician's license to practice medicine by competent authority in any state, federal, or foreign jurisdiction;

(12) Gross incompetency in the practice of medicine and surgery;

(13) Violation of any board rule or regulation fixing a standard of professional conduct;

(14) Wilful violation of RCW 18.72.175 or wilful disregard of the subpoena or notice of the Washington state medical disciplinary board; or

(15) Gross, wilful, and continued overcharging for professional services. [1975 c 61 § 1; 1963 c 142 § 1; 1955 c 202 § 3.]

Abortion: Chapter 9.02 RCW.

Failure of accused physician to cooperate deemed unprofessional conduct: RCW 18.72.175.

False advertising: Chapter 9.04 RCW.

Narcotics: Chapter 69.32 RCW.

Uniform alcoholism and intoxication treatment act: Chapter 70.96A RCW.

18.72.150 Powers and duties. The board shall have the following powers and duties:

(1) To adopt, amend and rescind such rules and regulations as it deems necessary to carry out the provisions of this chapter;

(2) To investigate all complaints and charges of unprofessional conduct against any holder of a license and to hold hearings to determine whether such charges are substantiated or unsubstantiated;

(3) To employ necessary stenographic or clerical help;

(4) To issue subpoenas and administer oaths in connection with any investigation, hearing, or disciplinary proceeding held under this chapter;

(5) To take or cause depositions to be taken as needed in any investigation, hearing, or proceeding;

(6) To investigate complaints and charges of malpractice and unsafe conditions and practices, to analyze equipment, procedures, and training, in such cases, and to direct corrective action. [1975 c 61 § 4; 1955 c 202 § 15.]

18.72.175 Accused to cooperate with board—Failure deemed unprofessional conduct. It shall be the duty and obligation of a physician against whom a complaint is made and who is being investigated by the medical disciplinary board to cooperate with the board as requested by it by:

(1) Furnishing any papers or documents;

(2) Furnishing in writing a full and complete explanation covering the matter contained in such complaint;

(3) Appearing before the board at the time and place designated.

Should such physician fail to cooperate with the board in the manner herein provided, such conduct shall be deemed to be unprofessional conduct. [1975 c 61 § 2.]

18.72.275 Suspension of physician's license for mental incompetency or illness, physical condition—Hearing—Examination—Reinstatement—Grounds. (1)

In the event that a physician is determined by a court of competent jurisdiction to be mentally incompetent or mentally ill, such physician shall automatically have his or her license suspended by the board upon the entry of such judgment, regardless of the pendency of an appeal.

(2) If it appears to the disciplinary board that there is reasonable cause to believe that a physician who has not been judicially determined to be mentally incompetent or mentally ill is unable to practice medicine with reasonable skill and safety to patients by reason of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material or as a result of any mental or physical condition, a complaint in the name of the board shall be served upon such physician for a hearing on the sole issue of the capacity of the physician to adequately conduct his or her practice. In enforcing this paragraph the board shall, upon probable cause, have authority to compel a physician to submit to a mental or physical examination by two or more physicians designated by the board and at least one of, whom may be designated by the charged party if he or she chooses. Failure of a physician to submit to such examination when directed constitutes grounds for immediate suspension of such physician's license, unless the failure was due to circumstances beyond his or her control, consequent upon which a default and final order may be entered without the taking of testimony or presentation of evidence. A physician affected under this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that he or she can resume the competent practice of medicine with reasonable skill and safety to patients.

For the purpose of this subsection (2), every physician licensed under this chapter who shall accept the privilege to practice medicine in this state shall by so practicing or by the making and filing of annual registration to practice medicine in this state, be deemed to have given his or her consent to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground that the same constitute a privileged communication.

In any proceeding under this subsection (2), neither the record of proceedings nor the orders entered by the board shall be used against a physician in any other proceeding. [1975 c 61 § 3.]

**Chapter 18.74
PHYSICAL THERAPY**

Sections	
18.74.050	Registration certificates—Temporary and probationary certificates.
18.74.060	Reciprocity.

18.74.070 Renewal of registration—Fee.

18.74.050 Registration certificates—Temporary and probationary certificates. The director shall furnish a certificate of registration upon the authority of the examining committee as follows:

(1) A certificate of registration shall be issued to any person who applies for such registration and who has qualified under the provisions of this chapter. At the time of making such application such applicant shall pay to the state treasurer a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, provided no person previously registered as a physical therapist shall be required to pay an additional fee for registration under this chapter.

(2) A probational certificate of registration may be issued to any domestic trained physical therapist who has credentials acceptable to the Washington state examining committee of physical therapists and who pays the required Washington state registration fee. Such probational certificate of registration shall be available to an applicant only with respect to his first application for registration, and such certificate of registration shall expire when the examining committee publishes the results of the first Washington state examination for registration for which applicant is eligible under the regulations of the examining committee.

(3) A probational certificate of registration may be issued for a period of one year to a foreign trained physical therapist who (a) makes the required application for registration, (b) holds a diploma from a foreign school of physical therapy, (c) presents credentials as required by the Washington state examining committee of physical therapists which establish professional qualifications substantially equivalent to those required of domestic trained physical therapists, and (d) pays the required Washington state registration fee. A person holding a probational certificate may practice physical therapy solely under the supervision of a person registered as a physical therapist under this chapter. Such probational certificate of registration shall be available to an applicant only with respect to his first application for registration. Such certificate of registration shall be continued until the examining committee publishes the results of the first Washington state examination for registration held after the period for which the certificate was originally issued.

(4) A regular certificate of registration may be issued to a foreign trained physical therapist who fulfills the above requirements in subsection (3) of this section and who passes the Washington state examination for registration.

(5) A temporary certificate of registration limited to six months may be issued, without examination, to any person who submits satisfactory evidence to the examining committee that he is in this state on a temporary basis to assist in a case of medical emergency or to engage in a special physical therapy project, and who meets the qualifications for a physical therapist as set forth in RCW 18.74.030. [1975 1st ex.s. c 30 § 65; 1961 c 64 § 4; 1949 c 239 § 5; Rem. Supp. 1949 § 10163-5.]

18.74.060 Reciprocity. Upon the recommendation of the examining committee, the director shall register as a physical therapist and shall furnish a certificate of registration to any person who is a physical therapist registered under the laws of another state or territory, or the District of Columbia, if the qualifications for such registration required of applicant were substantially equal to the requirements under this chapter and such person has practiced in such other state or territory or the District of Columbia for at least one year prior to application. At the time of making application, such applicant shall pay to the state treasurer a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 66; 1961 c 64 § 5; 1949 c 239 § 6; Rem. Supp. 1949 § 10163-6.]

18.74.070 Renewal of registration—Fee. Every registered physical therapist shall, during the month of January, apply to the director for a renewal of his registration and pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the state treasurer. Registration that is not so made before February 1st of every year, shall automatically lapse. Upon the recommendation of the examining committee the director shall revive a lapsed registration on the payment of all past unpaid renewal fees. [1975 1st ex.s. c 30 § 67; 1971 ex.s. c 266 § 13; 1961 c 64 § 6; 1949 c 239 § 7; Rem. Supp. 1949 § 10163-7.]

Chapter 18.78 PRACTICAL NURSES

Sections

18.78.080 License fee.
18.78.090 Renewal.

Actions for negligence against, evidence and proof required to prevail: RCW 4.24.290.

18.78.080 License fee. All applicants applying for a license to practice as a licensed practical nurse with or without examination, as provided in this chapter, shall pay a license fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the department of motor vehicles: *Provided, however,* That the applicant applying for a reexamination shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 68; 1963 c 15 § 3; 1949 c 222 § 9; Rem. Supp. 1949 § 10173-35.]

18.78.090 Renewal. Every licensed practical nurse in this state shall register annually with the division of professional licensing in the department of motor vehicles, on or before the first day of March, and shall pay an annual fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, and thereupon the license of such person shall be renewed for a period of one year. Any failure to register and pay the annual renewal registration fee shall render the license invalid, but such license shall be reinstated upon

written application therefor to the division of professional licensing, and upon payment to the state of a penalty fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, together with all delinquent annual license renewal fees. [1975 1st ex.s. c 30 § 69; 1971 ex.s. c 266 § 14; 1967 c 79 § 4; 1963 c 15 § 4; 1949 c 222 § 10; Rem. Supp. 1949 § 10173-36.]

Chapter 18.82 PROPRIETARY SCHOOLS

Sections

18.82.030 Registration required—Fee—Forms—Contents.
18.82.060 Agents' permits.

18.82.030 Registration required—Fee—Forms—Contents. No proprietary school may offer a course of instruction within this state without first registering as a proprietary school with the director and paying an annual registration fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended before July first of each year to the director. Such registration shall be on forms provided by the director and shall contain: (1) The names of the individual owner, or if the owner is a corporation or partnership, the names of the officers and directors or members thereof; (2) the administrator, business address, and location of the proprietary school; (3) the field or fields of endeavor for which the proprietary school purports to train or prepare persons, and a brief description of the courses offered by the proprietary school. [1975 1st ex.s. c 30 § 70; 1967 ex.s. c 72 § 3.]

18.82.060 Agents' permits. (1) No person shall for remuneration sell any course or courses in this state for any proprietary school, or solicit students therefor in this state, without first obtaining an agent's permit from the director. If the agent represents more than one school, a separate permit shall be obtained for each school represented by him: *Provided,* That if an agent represents a school with more than one location or branches he need only obtain a single permit for such school. Upon approval for a permit the director shall issue a pocket card to the agent, giving his name and address, the name and address of his employing correspondence school, and certifying that the person whose name appears on the card is an authorized agent of the school. A permit shall be valid until the subsequent July 1st from the date on which it was issued.

(2) The application for a permit or renewal shall be made on forms to be furnished by the director and shall be accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

(3) Any permit applied for pursuant to this section shall be granted or denied within thirty days of the receipt of the application therefor by the director. If the director has not completed his determination with respect to the issuance of a permit pursuant to this section within such thirty-day period, he shall issue a temporary permit to the applicant, which permit shall

be sufficient to meet the requirements of this chapter until such time as such determination is made. An agent's permit shall be issued if the director is satisfied that the applicant does in fact represent the proprietary school for which a permit is requested, that the applicant is of good moral character, and that a previous permit for such person has not been revoked.

(4) Any permit issued may be revoked by the director if the holder of the permit solicits or enrolls students through fraud, deception, or misrepresentation or upon a finding that a fact or condition exists which would have warranted the denial of the issuance of the permit, had such fact or condition existed at the time of original application.

(5) The applicant for, or holder of, an agent's permit shall be entitled to an opportunity for an agency hearing with respect to the denial of an application therefor, or the revocation or suspension thereof, by the director, and the applicable provisions of the Administrative Procedure Act found in chapter 34.04 RCW, as it now exists or may hereafter be amended, shall apply with respect thereto.

(6) The issuance of a permit pursuant to this section shall not be deemed to constitute approval of any course or the proprietary school offering or administering the same. Any representation contrary to this paragraph or tending to imply that a permit issued pursuant to this section constitutes such approval shall be misrepresentation within the meaning of this chapter. [1975 1st ex.s. c 30 § 71; 1967 ex.s. c 72 § 6.]

Chapter 18.83 PSYCHOLOGISTS

Sections

18.83.060	Application for license—Fee.
18.83.082	Licenses—Issue to "certified psychologists"—Temporary permits.
18.83.090	Licenses—Renewal—Fee.
18.83.105	Certificates of qualification.
18.83.170	Reciprocity.

18.83.060 Application for license—Fee. Each applicant for a license shall file with the director an application duly verified, in such form and setting forth such information as the board shall prescribe. An application fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall accompany each application. [1975 1st ex.s. c 30 § 72; 1965 c 70 § 6; 1955 c 305 § 6.]

18.83.082 Licenses—Issue to "certified psychologists"—Temporary permits. (1) All "certified psychologists" who are certified under the provisions of chapter 18.83 RCW shall be promptly issued a license by the director. The fee for this license shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended.

(2) The words "certification" and "licensing" shall be known as interchangeable terms in this chapter.

(3) A valid receipt for an initial application for license hereunder, provided the applicant meets the requirements of subsections (1) and (2) of RCW

18.83.070, shall constitute a temporary permit to practice psychology until the board of examiners completes action on the application. The board must complete action within one year of the date such receipt is issued.

(4) A person, not licensed in this state, who wishes to perform practices under the provisions of this chapter for a period not to exceed ninety days within a calendar year, must petition the board for a temporary permit to perform such practices. If the person is licensed or certified in another state deemed by the board to have standards equivalent to this chapter, a permit may be issued. No fee shall be charged for such temporary permit. [1975 1st ex.s. c 30 § 73; 1965 c 70 § 23.]

18.83.090 Licenses—Renewal—Fee. Each licensed psychologist shall renew his license by paying to the state treasurer, on or before the tenth day of January of each year, a renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Upon receipt of such payment by the state treasurer the director shall issue a certificate of renewal in such form as the director shall determine. [1975 1st ex.s. c 30 § 74; 1971 ex.s. c 266 § 16; 1965 c 70 § 9; 1955 c 305 § 9.]

18.83.105 Certificates of qualification. The board may issue certificates of qualification with appropriate title to applicants who meet all the licensing requirements except the possession of the degree of Doctor of Philosophy or its equivalent in psychology from an accredited educational institution. These certificates of qualification certify that the holder has been examined by the board and is deemed competent to perform certain functions within the practice of psychology under the periodic direct supervision of a psychologist licensed by the board. Such functions will be specified on the certificate issued by the board. Such applicant shall pay to the board of examiners a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended for certification in a single area of qualification and a fee for amendment of the certificate to include each additional area of qualification. Upon petition by a holder the board of examiners may grant authority to function without immediate supervision. [1975 1st ex.s. c 30 § 75; 1965 c 70 § 22.]

18.83.170 Reciprocity. Upon application accompanied by a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, the board may recommend and the director shall be empowered to grant a license, without written or oral examination, to any applicant who has not previously failed any examination held by the board of psychology of the state of Washington and furnishes evidence satisfactory to the board that he:

(1) Holds a doctoral degree with primary emphasis on psychology from an accredited college or university; and

(2) Is licensed or certified to practice psychology in another state in which the requirements for such licensing or certification are, in the judgment of the board, essentially equivalent to those required by this chapter

and the rules and regulations of the board. Such individuals must have been licensed or certified in another state for a period of at least two years; or

(3) Is a diplomate in good standing of the American Board of Examiners in Professional Psychology. [1975 1st ex.s. c 30 § 76; 1965 c 70 § 17; 1955 c 305 § 17.]

Chapter 18.88 REGISTERED NURSES

Sections

- 18.88.160 License fee.
18.88.190 Renewal of licenses—Fee.
18.88.200 Penalty for failure to renew.

Actions for negligence against, evidence and proof required to prevail: RCW 4.24.290.

18.88.160 License fee. Each applicant for a license to practice as a registered nurse or a specialized or advanced registered nurse shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended to the state treasurer. [1975 1st ex.s. c 30 § 77; 1973 c 133 § 15; 1961 c 288 § 10; 1949 c 202 § 16; Rem. Supp. 1949 § 10173-14.]

Severability—1973 c 133: See note following RCW 18.88.010.

18.88.190 Renewal of licenses—Fee. Every license issued under the provisions of this chapter shall be renewed, except as hereinafter provided. At least thirty days prior to expiration, the director shall mail a notice for renewal of license to every person licensed for the current licensing period. The applicant shall return the notice to the department with a renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended before the expiration date. Upon receipt of the notice and appropriate fee the department shall issue to the applicant a license which shall render the holder thereof a legal practitioner of nursing for the period stated on the license. [1975 1st ex.s. c 30 § 78; 1973 c 133 § 18; 1971 ex.s. c 266 § 18; 1961 c 288 § 11; 1949 c 202 § 19; Rem. Supp. 1949 § 10173-17. Prior: 1933 c 180 § 1; 1909 c 41 § 3.]

Severability—1973 c 133: See note following RCW 18.88.010.

18.88.200 Penalty for failure to renew. Any licensee who allows his or her license to lapse by failing to renew the license, shall upon application for renewal pay a penalty determined by the director as provided in RCW 43.24.085 as now or hereafter amended. If the applicant fails to renew the license before the end of the current licensing period, the license shall be issued for the next licensing period by the department upon written application and fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 79; 1973 c 133 § 19; 1961 c 288 § 12; 1949 c 202 § 20; Rem. Supp. 1949 § 10173-18. Prior: 1933 c 180 § 1.]

Severability—1973 c 133: See note following RCW 18.88.010.

Chapter 18.90 SANITARIANS

Sections

- 18.90.040 Registration, renewal fees—Sanitarians' licensing account—Expiration of certificates, delinquencies—Reexaminations.
18.90.050 Registration of sanitarians registered in another state—Fee.

18.90.040 Registration, renewal fees—Sanitarians' licensing account—Expiration of certificates, delinquencies—Reexaminations. Applicants for registration shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended at the time of making application. A sanitarian registered under the provisions of this chapter shall renew his certificate by paying an annual renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. All receipts realized in the administration of this chapter shall be paid into the general fund into a special account to be known as the sanitarians' licensing account. All fees shall be due and payable on or before the first day of July for the current year for which the renewal certificate shall be issued. All certificates shall expire on the renewal date unless renewed prior to such date. When such fees are not paid in full before September 1st they shall become delinquent and there shall be added to the renewal fee a penalty determined by the director as provided in RCW 43.24.085 as now or hereafter amended. Any certificate not having been renewed by October 1st of the year of expiration shall be considered lapsed. In the event an applicant shall fail to pass any examinations provided for under this chapter and the board shall grant permission for a reexamination, such applicant on reexamination shall pay an additional fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 80; 1971 ex.s. c 266 § 19; 1959 c 200 § 4.]

18.90.050 Registration of sanitarians registered in another state—Fee. The board upon written application together with such references and proof as it may prescribe, shall certify to the director without examination any person who is registered as a sanitarian under the laws of any other state, the requirements of which for receiving such registration were at the time such registration was issued, equal to the requirements so imposed by this state for registration of sanitarians. The application fee for an applicant by reciprocity shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 81; 1959 c 200 § 5.]

Chapter 18.92 VETERINARY MEDICINE, SURGERY AND DENTISTRY

Sections

- 18.92.115 Reexamination—Fee.
18.92.142 License—Penalty.
18.92.145 License, permit and annual renewal fees.

18.92.115 Reexamination—Fee. Any applicant who shall fail to secure the required grade in his first examination may take the next regular veterinary examination. The fee for reexamination shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 30 § 82; 1967 ex.s. c 50 § 7; 1959 c 92 § 8; 1941 c 71 § 10; Rem. Supp. 1941 § 10040-10. Prior: 1907 c 124 § 17. Formerly RCW 18.92.090, part.]

18.92.142 License—Penalty. Any failure, neglect, or refusal on the part of any person duly licensed to practice veterinary medicine, surgery, and dentistry by said director, to register and pay the annual registration fee to the director on or before July 1st of each year shall render the license invalid, and it shall not be reinstated except upon written application therefor to the director and payment of a penalty determined by the director as provided in RCW 43.24.085 as now or hereafter amended, together with all delinquent annual license renewal fees. [1975 1st ex.s. c 30 § 83; 1941 c 71 § 17; Rem. Supp. 1941 § 10040-17. Formerly RCW 18.92.140, part.]

18.92.145 License, permit and annual renewal fees. The director shall determine the fees, as provided in RCW 43.24.085 as now or hereafter amended, for the issuance, renewal, or administration of the following licenses, permit, or examination:

(1) For a license to practice veterinary medicine, surgery, and dentistry issued upon an examination given by the examining board;

(2) For a license to practice veterinary medicine, surgery, and dentistry issued upon the basis of a license issued in another state;

(3) For the annual renewal of a license to practice veterinary medicine, surgery, and dentistry;

(4) For a temporary permit to practice veterinary medicine, surgery, and dentistry. The temporary permit fee shall be accompanied by the full amount of the examination fee. [1975 1st ex.s. c 30 § 84; 1971 ex.s. c 266 § 20; 1967 ex.s. c 50 § 9; 1959 c 92 § 12; 1941 c 71 § 19; Rem. Supp. 1941 § 10040-19. Prior: 1907 c 124 §§ 9, 10. Formerly RCW 18.92.090 and 18.92.140.]

Chapter 18.96 LANDSCAPE ARCHITECTS

Sections

18.96.080	Applications—Contents—Fees—Practitioners at time of enactment.
18.96.100	Reciprocity.
18.96.110	Expiration date—Renewals.
18.96.140	Restoration of suspended or revoked licenses—Reissuance of lost or destroyed certificates.

18.96.080 Applications—Contents—Fees—Practitioners at time of enactment. Application for registration shall be filed with the director prior to the date set for examination and shall contain statements made under oath showing the applicant's education and a detailed summary of his practical experience, and shall contain not less than five references, of whom three or

more shall be landscape architects having personal knowledge of his landscape architectural experience.

The application fee shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended and shall include a nonrefundable examination fee, and a fee for issuance of the certificate.

The application fee for reexamination shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended and shall include, and must be filed with the director not less than six days prior to the date set for examination.

At any time within the first two years following August 11, 1969, the board shall certify for registration, without examination, any applicant who submits proof that he has had at least a combination of education and experience substantially equivalent to six years of practice in landscape architecture prior to August 11, 1969. [1975 1st ex.s. c 30 § 85; 1969 ex.s. c 158 § 8.]

18.96.100 Reciprocity. The director may, upon payment of a filing and investigation fee including the current registration fee in an amount as determined by the director as provided in RCW 43.24.085 as now or hereafter amended, grant a certificate of registration without examination to any applicant who is a registered landscape architect in any other state or country whose requirements for registration are at least substantially equivalent to the requirements of this state for registration by examination, and which extends the same privileges of reciprocity to landscape architects registered in this state. [1975 1st ex.s. c 30 § 86; 1969 ex.s. c 158 § 10.]

18.96.110 Expiration date—Renewals. Certificates of registration shall expire on the last day of June following their issuance or renewal. The director shall set the yearly fee for renewal which shall be determined as provided in RCW 43.24.085 as now or hereafter amended. Renewal may be effected during the month of June by payment to the director of the required fee.

In case any registrant fails to pay the renewal fee before thirty days after the due date, the renewal fee shall be the current fee plus an amount equal to one year's fee at the discretion of the board: *Provided*, That any registrant in good standing, upon fully retiring from landscape architectural practice, may withdraw from practice by giving written notice to the director, and may thereafter resume practice at any time upon payment of the then current annual renewal fee. Any registrant, other than a properly withdrawn licensee, who fails to renew his registration for a period of one year may reinstate only on reexamination as is required for new registrants. [1975 1st ex.s. c 30 § 87; 1969 ex.s. c 158 § 11.]

18.96.140 Restoration of suspended or revoked licenses—Reissuance of lost or destroyed certificates. Upon the recommendations of the board, the director may restore a license to any person whose license has been suspended or revoked. Application for the reissuance of a license shall be made in such a manner as indicated by the board.

A new certificate of registration to replace any certificate lost or destroyed, or mutilated may be issued by the director, and a charge determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be made for such issuance. [1975 1st ex.s. c 30 § 88; 1969 ex.s. c 158 § 14.]

Chapter 18.106 PLUMBERS

Sections

- 18.106.010 Definitions.
18.106.020 Certificate of competency—Required.
18.106.040 Examinations—Eligibility requirements—
Determination.
18.106.120 Repealed.

18.106.010 Definitions. Unless a different meaning is plainly required by the context, the following words and phrases as hereinafter used in this chapter shall have the following meaning:

(1) "Advisory board" means the state advisory board of plumbers;

(2) "Department" means the department of labor and industries;

(3) "Director" means the director of department of labor and industries;

(4) "Journeyman plumber" means any person who has been issued a certificate of competency by the department of labor and industries as provided in this chapter;

(5) "Plumbing" means that craft involved in installing, altering, repairing and renovating potable water systems and liquid waste systems within a building: *Provided*, That installation in a water system of water softening or water treatment equipment shall not be within the meaning of plumbing as used in this chapter;

(6) "Local enforcement agency" shall mean any local governmental agency involved in the enforcement of plumbing codes and the issuance of journeyman plumbers' licenses. [1975 1st ex.s. c 71 § 1; 1973 1st ex.s. c 175 § 1.]

18.106.020 Certificate of competency—Required. No person shall engage in the business or trade of plumbing as a journeyman without having a current certificate of competency issued by the department in accordance with the provisions of this chapter. [1975 1st ex.s. c 71 § 2; 1973 1st ex.s. c 175 § 2.]

18.106.040 Examinations—Eligibility requirements—Determination. Upon receipt of the application and evidence set forth in RCW 18.106.030, the director shall review the same and make a determination as to whether the applicant is eligible to take an examination for the certificate of competency. To be eligible to take the examination the applicant must have worked under the supervision of a journeyman plumber certified under this chapter or have completed a course of study in the plumbing trade in the armed services of the United States or at a school accredited by the coordinating council on occupational education. No other requirement for eligibility may be imposed. The director

shall establish reasonable rules and regulations for the examinations to be given applicants for certificates of competency. In establishing said rules, regulations, and criteria, the director shall consult with the state advisory board of plumbers as established in RCW 18.106.110. Upon determination that the applicant is eligible to take the examination, the director shall so notify him, indicating the time and place for taking the same. [1975 1st ex.s. c 71 § 3; 1973 1st ex.s. c 175 § 4.]

18.106.120 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 18.108 MESSAGE OPERATORS AND BUSINESSES

Sections

- 18.108.010 Definitions.
18.108.020 State message examining board—Created—Membership—Terms—Vacancies—Powers and duties—Compensation.
18.108.030 Massage operator's license required.
18.108.040 Advertising practice of massage by unlicensed person unlawful.
18.108.050 Exemptions.
18.108.060 Massage operator's licenses—Expiration date—Renewal—Fees.
18.108.070 Massage operator's licenses—Applicant's qualifications—Examination.
18.108.080 Grounds for denial, suspension or revocation of licenses.
18.108.090 General penalty.
18.108.100 Provisions relating to licensing of persons nonexclusive.
18.108.110 Massage business license—Advertising without license unlawful.
18.108.120 Massage business license—Required—Hiring unlicensed massage operator prohibited.
18.108.130 Exemptions.
18.108.140 Massage business license—Expiration—Renewal.
18.108.150 Massage business license—Qualifications—Information to be furnished.
18.108.160 Massage business license—Fees.
18.108.170 Grounds for denial of issuance or renewal of licenses.
18.108.180 Inspection of massage premises by director—Reports and information.
18.108.190 Inspection of premises by law enforcement personnel.
18.108.200 Massage businesses—Rules and regulations.
18.108.210 Provisions relating to licensing of massage businesses nonexclusive—Authority of local political subdivisions.
18.108.900 Severability—1975 1st ex.s. c 280.

18.108.010 Definitions. In this chapter, unless the context otherwise requires, the following meanings shall apply:

(1) "Board" means the state message examining board;

(2) "Massage" means the treatment of the superficial parts of the body, with or without the aid of soaps, oils, or lotions, by rubbing, touching, stroking, tapping, and kneading, provided no attempt be made to adjust or manipulate the articulations of the spine;

(3) "Massage operator" means a person engaged in the practice of massage;

(4) "Director" means the director of the department of motor vehicles.

(5) Massage business means the operation of a business where massages are given. [1975 1st ex.s. c 280 § 1.]

18.108.020 State massage examining board—Created—Membership—Terms—Vacancies—Powers and duties—Compensation. The state massage examining board is hereby created. The board shall consist of three members who shall be appointed by the governor for a term of three years each. Each member shall be a resident of this state and shall have not less than three years experience in the practice of massage immediately preceding their appointment and shall be actively engaged in the practice of massage during their incumbency. Within thirty days after September 8, 1975, three members shall be appointed by the governor to serve one, two, and three years respectively. In the event that a member cannot complete his term of office, another appointment shall be made by the governor in accordance with the procedures stated in this section to fill the remainder of the term. No member may serve more than two successive terms and shall qualify and receive a license pursuant to RCW 18.108.070 within ninety days of their appointment.

Subject to the approval of the director, the board shall have the power to promulgate rules and regulations not inconsistent with the law and which may be necessary for the performance of its duties. It shall be the duty of the board to pass upon the qualifications of applicants for licenses, prepare the necessary examination questions and practical demonstrations, conduct examinations from time to time in such places as the director designates, and to determine the applicants who successfully passed the examination, and in turn notify the director of such determinations.

Each member of the board shall receive as compensation twenty-five dollars for each day's attendance at meetings of the board. Members shall be reimbursed for necessary traveling expenses incurred in the actual performance of their duties, as provided for state officials and employees generally in chapter 43.03 RCW. [1975 1st ex.s. c 280 § 2.]

18.108.030 Massage operator's license required. No person shall engage in, or hold themselves out as engaged in the practice of massage without a massage operator's license issued by the director. [1975 1st ex.s. c 280 § 3.]

18.108.040 Advertising practice of massage by unlicensed person unlawful. It shall be unlawful to advertise the practice of massage by a person not licensed by the director. [1975 1st ex.s. c 280 § 4.]

18.108.050 Exemptions. This chapter does not apply to:

(1) An individual giving massage in their home to members of their immediate family;

(2) Persons licensed in this state to practice medicine, surgery, drugless therapy, cosmetology, barbering, physical therapy, osteopathy, osteopathy and surgery, chiropractic, podiatry, nursing, or persons working under prescription, supervision, or direction of any such person;

(3) Massage practiced at the athletic department of any institution maintained by the public funds of the state, or any of its political subdivisions;

(4) Massage practiced at the athletic department of any school or college accredited by the northwest association of secondary and higher schools. [1975 1st ex.s. c 280 § 5.]

Exemptions: RCW 18.108.130.

18.108.060 Massage operator's licenses—Expiration date—Renewal—Fees. All licenses issued under the provisions of this chapter, unless otherwise provided shall expire on the annual anniversary date of the individual's date of birth.

Failure to pay the annual license renewal fee by the dates specified above shall render the license invalid, but such license may be reinstated upon written application therefor to the director, and payment to the state of a penalty of ten dollars together with all delinquent annual license renewal fees.

The director shall prorate the licensing fee for massage operator based on one-twelfth of the annual license fee for each full calendar month between the issue date and the next anniversary of the applicant's birth date, a date used as the expiration date of such license.

Every applicant for a license shall pay an examination fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, which fee shall accompany their application.

Applicants granted a license under this chapter shall pay to the director a license fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended, prior to the issuance of their license, and an annual renewal fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. [1975 1st ex.s. c 280 § 6.]

18.108.070 Massage operator's licenses—Applicant's qualifications—Examination. The director shall approve issuance of a massage operator license to any applicant who is eighteen years of age or over and who has furnished satisfactory proof of their good character and health and who also has passed a written or oral examination and/or practical demonstration, prepared and conducted by the board establishing their competency and ability to engage in the practice of massage. The examinations shall require the applicant to demonstrate a basic knowledge of anatomy, physiology, hygiene, first aid, and such other subjects as the examining board may determine: *Provided*, That the board shall give an appropriate alternate form of examination for persons who cannot read or speak English to determine equivalent competency. [1975 1st ex.s. c 280 § 7.]

18.108.080 Grounds for denial, suspension or revocation of licenses. The director may deny issuance or renewal of any license authorized under this chapter, or suspend or revoke any such license, if the licensee:

(1) Has violated any provision of this chapter, or any rule or regulation of the director adopted pursuant to this chapter;

(2) Has made any false statement or representation to the director in order to induce or prevent action by the director;

(3) Has been convicted of a crime of lewdness or moral turpitude or a crime involving possession, use, or distribution of controlled substances, or has forfeited a bond to appear in court for any of the foregoing offenses. [1975 1st ex.s. c 280 § 9.]

Grounds for denial, suspension or revocation of licenses: RCW 18.108.170.

18.108.090 General penalty. Any person who violates any of the provisions of this chapter, or the rules and regulations adopted pursuant thereto, shall be guilty of a gross misdemeanor. [1975 1st ex.s. c 280 § 10.]

18.108.100 Provisions relating to licensing of persons nonexclusive. The provisions of this chapter relating to the licensing of any person shall not be exclusive, and any political subdivision of the state of Washington within whose jurisdiction the practice of massage is performed may require additional registrations or licenses, regulating the practice of massage or massage operators, and charge any fee for the same or similar purpose. [1975 1st ex.s. c 280 § 11.]

18.108.110 Massage business license—Advertising without license unlawful. It shall be unlawful to advertise the practice of massage by a business not licensed by the director. [1975 1st ex.s. c 280 § 12.]

18.108.120 Massage business license—Required—Hiring unlicensed massage operator prohibited. No person shall conduct a massage business without a massage business license issued by the director and, where required, by the political subdivision within whose jurisdiction the massage business is located. No massage business shall hire a massage operator who is not licensed by the director, provided that this requirement shall not become effective until six months after September 8, 1975. [1975 1st ex.s. c 280 § 13.]

18.108.130 Exemptions. This chapter does not apply to:

(1) Massage practiced at the athletic department of any institution maintained by the public funds of the state, or any of its political subdivisions;

(2) Massage practiced at the athletic department of any primary or secondary school, or institution of higher education; and

(3) Massage practiced at the athletic department of any nonprofit organization licensed under RCW 66.24.400 and 66.24.450. [1975 1st ex.s. c 280 § 14.]

Exemptions: RCW 18.108.050.

18.108.140 Massage business license—Expiration—Renewal. Massage business license shall expire annually. Failure to pay the annual license renewal fee shall render the license invalid, but such license may be reinstated upon written application thereof to the director, and payment to the state of a penalty of ten dollars

together with all delinquent annual license renewal fees. [1975 1st ex.s. c 280 § 15.]

18.108.150 Massage business license—Qualifications—Information to be furnished. The director shall approve issuance of a massage business license to any applicant who supplies the following information:

(1) The name, home address, telephone number, and social security number and birth certificate of the applicant and of all persons named under subsections (3) and (4) of this section; and

(2) The business name, business address and telephone number of the establishment or proposed establishment and a description of the premises on which said business will be conducted; and

(3) The names of all persons owning an interest in such business or proposed business, including any corporate stockholders, and whether such business will be conducted as a sole proprietorship, partnership, or corporation; if a partnership, giving the names of all persons sharing in the profits of said business, and if a corporation giving the names of its officers and directors and the title of each; and

(4) The names of all persons who will act as proprietor, manager, or person in charge of such business or proposed business; and

(5) Evidence that the facilities of the applicant's massage business comply with the standards established by the director. [1975 1st ex.s. c 280 § 16.]

18.108.160 Massage business license—Fees. The fee for application for, and renewal of a massage business license shall be determined by the director as provided in RCW 43.24.085 as now or hereafter amended: *Provided*, That only one fee shall be required where an applicant applies for both a license to practice massage and for a business license. [1975 1st ex.s. c 280 § 17.]

18.108.170 Grounds for denial of issuance or renewal of licenses. The director may deny issuance or renewal of any license authorized under this chapter, or suspend or revoke any such license, if the licensee:

(1) Has violated any provision of this chapter, or any rule or regulation of the director adopted pursuant to this chapter;

(2) Has made any false statement or representation to the director in order to induce or prevent action by the director;

(3) Has displayed improper, unprofessional, or dishonorable conduct in the operation of his massage business;

(4) Has been convicted of a crime, in connection with the licensee's practice as a massage operator, of lewdness or moral turpitude or possession, use or distribution of a schedule I controlled substance, except marihuana, as defined in RCW 69.50.204, or has forfeited a bond to appear in court for any of the foregoing offenses;

(5) Has failed or refused to qualify for or obtain any business license required by the local political subdivision within whose jurisdiction the massage business is located. [1975 1st ex.s. c 280 § 18.]

Grounds for denial, suspension or revocation of licenses: RCW 18.108.080.

18.108.180 Inspection of massage premises by director—Reports and information. The director or any of his authorized representatives may at any time visit and inspect the premises of each massage business establishment in order to ascertain whether it is conducted in compliance with the law, including the provisions of this chapter and the rules and regulations of the director. The operator of such massage business shall furnish such reports and information as may be required. [1975 1st ex.s. c 280 § 19.]

18.108.190 Inspection of premises by law enforcement personnel. State and local law enforcement personnel shall have the authority to inspect the premises at any time including business hours. [1975 1st ex.s. c 280 § 20.]

18.108.200 Massage businesses—Rules and regulations. The director is authorized to promulgate rules and regulations in accordance with chapter 34.04 RCW to carry out the provisions of this chapter relating to the regulation of massage businesses in this state. [1975 1st ex.s. c 280 § 21.]

18.108.210 Provisions relating to licensing of massage businesses nonexclusive—Authority of local political subdivisions. The provisions of this chapter relating to the registration and licensing of any massage business shall not be exclusive and any political subdivision of the state of Washington within whose jurisdiction the massage business is located may require any registrations or licenses, or charge any fee for the same or similar purpose; and nothing herein shall limit or abridge the authority of any political subdivision to levy and collect a general and nondiscriminatory license fee levied upon all businesses, or to levy a tax based upon gross business conducted by any firm within said political subdivision. [1975 1st ex.s. c 280 § 22.]

18.108.900 Severability—1975 1st ex.s. c 280. If any provision of this 1975 act is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this 1975 act and the applicability thereof to other persons and circumstances shall not be affected thereby. [1975 1st ex.s. c 280 § 23.]

Title 19 BUSINESS REGULATIONS— MISCELLANEOUS

Chapters

- 19.09** Charitable solicitations.
- 19.16** Collection agencies.
- 19.20** Convict-made goods.
- 19.27** State building code.
- 19.28** Electricians and electrical installations.
- 19.31** Employment agencies.

- 19.52** Interest—Usury.
- 19.89** Fair Trade Act.
- 19.91** Unfair cigarette sales act.
- 19.94** Weights and measures—1969 act.
- 19.98** Farm implements, machinery, parts.
- 19.105** Camping clubs.

Chapter 19.09 CHARITABLE SOLICITATIONS

- | | |
|-----------|---------------------------------------|
| Sections | |
| 19.09.210 | Financial statements—Special reports. |
| 19.09.350 | Fees. |

19.09.210 Financial statements—Special reports. (a) Within ninety days following the close of its fiscal year every charitable organization which is required to file a registration statement under RCW 19.09.060 and which has received contributions during the previous fiscal year shall file with the director a financial statement containing, but not limited to, the following information:

(1) The gross amount of the contributions pledged and the gross amount collected.

(2) The amount thereof, given or to be given to charitable purposes represented together with details as to the manner of distribution as may be required either by general rule or by specific written request of the director.

(3) The aggregate amount paid and to be paid for the expenses of such solicitation.

(4) The amounts paid to and to be paid to professional fund raisers and solicitors.

(5) Copies of any annual or periodic reports furnished by the charitable organization, of its activities during or for the same fiscal period, to its parent organization, subsidiaries, or affiliates, if any.

(b) The director may prescribe such forms as may be necessary or convenient for the furnishing of such information. In addition, the director may require that within thirty days after the close of any special period of solicitation the charitable organization conducting such solicitation shall file a special report containing the information specified in this section for such special period of solicitation. [1975 1st ex.s. c 219 § 1; 1973 1st ex.s. c 13 § 21.]

19.09.350 Fees. To defray the cost of administering this chapter the director shall collect fees for the following services in amounts determined by the director as provided in RCW 43.24.085: Filing a registration of a charitable organization, renewal of such registration, filing each separate financial statement of the solicitation of funds by a charitable organization, filing the registration of a professional fund raiser, filing the registration of a professional solicitor: *Provided*, That no specific fee provided for under this section shall be collected from any person or organization more than once in any calendar year.

All such fees, when received by the director, shall be transmitted to the state treasurer. [1975 1st ex.s. c 30 § 89; 1973 1st ex.s. c 13 § 35.]

Chapter 19.16
COLLECTION AGENCIES

Sections

- 19.16.140 License—Application—Fees.
19.16.150 Branch office certificate required.

19.16.140 License—Application—Fees. Each applicant when submitting his application shall pay a licensing fee and an investigation fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. If a license is not issued in response to the application, the license fee shall be returned to the applicant.

An annual license fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be paid to the director on or before January first of each year. If the annual license fee is not paid on or before January first, the licensee shall be assessed a penalty for late payment in an amount determined by the director as provided in RCW 43.24.085 as now or hereafter amended. If the fee and penalty are not paid by January thirty-first, it will be necessary for the licensee to submit a new application for a license: *Provided*, That no license shall be issued upon such new application unless and until all fees and penalties previously accrued under this section have been paid.

Any license or branch office certificate issued under the provisions of this chapter shall expire on December thirty-first following the issuance thereof. [1975 1st ex.s. c 30 § 90; 1971 ex.s. c 253 § 5.]

19.16.150 Branch office certificate required. If a licensee maintains a branch office, he or it shall not operate a collection agency business in such branch office until he or it has secured a branch office certificate therefor from the director. A licensee, so long as his or its license is in full force and effect and in good standing, shall be entitled to branch office certificates for any branch office operated by such licensee upon payment of the fee therefor provided in this chapter.

Each licensee when applying for a branch office certificate shall pay a fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended. An annual fee determined by the director as provided in RCW 43.24.085 as now or hereafter amended for a branch office certificate shall be paid to the director on or before January first of each year. If the annual fee is not paid on or before January first, a penalty for late payment in an amount determined by the director as provided in RCW 43.24.085 as now or hereafter amended shall be assessed. If the fee and the penalty are not paid by January thirty-first, it will be necessary for the licensee to apply for a new branch office certificate: *Provided*, That no such new branch office certificate shall be issued unless and until all fees and penalties previously accrued under this section have been paid. [1975 1st ex.s. c 30 § 91; 1971 ex.s. c 253 § 6.]

Chapter 19.20
CONVICT-MADE GOODS

Sections

- 19.20.020 Sale of convict-made goods prohibited—Exceptions—Rehabilitation and vocational program goods excepted, compensation.

19.20.020 Sale of convict-made goods prohibited—Exceptions—Rehabilitation and vocational program goods excepted, compensation. The selling, offering, keeping, exposing or displaying for sale on the open market within this state of any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part, by convicts or prisoners, except convicts or prisoners on parole, probation, or work or training release is hereby prohibited except that, any fair, bazaar, or other public gathering of a temporary nature which displays and offers for sale hand crafted articles, may provide adequate space for the display and sale of hand crafted articles manufactured as result of occupational therapy by persons confined to any institution in this state. Such space shall be furnished without charge. The secretary of social and health services shall credit the proceeds derived from the sale of such articles to the institutions where produced or manufactured to be deposited in a revolving fund to be expended for the purchase of supplies, materials, and equipment for the production of hand crafted articles, provided, that any resident of a state correctional institution who produces a hand crafted article with supplies or materials purchased or procured by him, not at state expense, may be permitted by the secretary, or his designee, to sell such article under the authority of this section, the proceeds to be deposited in his personal account.

No goods, wares, or merchandise manufactured, produced, or mined, in whole or in part, by convicts or prisoners of other states, except convicts or prisoners on parole or probation, shall be shipped into this state to be sold on the open market in this state, or sold to or exchanged with an institution of this state, or any of its political subdivisions: *Provided*, This chapter shall not prohibit the sale to or exchange between penal, reformatory, or custodial institutions and/or departments of this state, including any of its political subdivisions, for use or consumption by said institutions, of goods, wares, or merchandise manufactured, produced, or mined, in whole or in part, by convicts or prisoners of the state of Washington: *And provided, further*, This chapter shall not apply to commodities manufactured by federal, penal, or correctional institutions for use by the federal government and/or goods displayed or sold within any of the penal, reformatory, or custodial institutions of the state for the benefit of the inmates thereof. Nothing in this section shall be construed to apply to goods, wares, or merchandise manufactured, produced, or mined, in whole or part by convicts or prisoners employed by employers other than the state of Washington under work, training, or similar rehabilitative or vocational programs. Furthermore, such convict or prisoner participants shall be compensated at fair market prevailing wages and shall be entitled to all benefits and privileges in their employment to the same

extent as other employees of their employer to the maximum extent which is not inconsistent with the rules, regulations, and conditions imposed upon the convict or the prisoner as the result of confinement or probation, except that such participants shall not receive unemployment compensation benefits pursuant to any of the provisions of Title 50 RCW. Procedures for distribution of earnings shall be developed for the department of social and health services in accordance with RCW 72.65.050. All participants who become engaged in employment or training under this program shall not be considered as agents, employees, or involuntary servants of [the] state, and the department of social and health services is prohibited from entering into a contract with any person, copartnership, company, or corporation for the labor of any participant under its jurisdiction. The institutional industries commission as established by chapter 72.60 RCW shall be responsible for overall supervision of any in prison work opportunities organized in accordance with this section. [1975 c 44 § 1; 1970 ex.s. c 73 § 1; 1933 c 178 § 1; 1927 c 294 § 1; RRS § 5847-1. Formerly RCW 19.20.020 through 19.20.050.]

Chapter 19.27 STATE BUILDING CODE

Sections

19.27.030	National codes and standards—Adoption by reference—Conflicts. (Amendment effective July 1, 1976.)
19.27.040	Cities and counties authorized to amend state building code—Adopt revisions—Limitations. (Amendment effective July 1, 1976.)
19.27.060	Local building regulations superseded—Exceptions.
19.27.080	Chapters of RCW not affected.
19.27.100	Cities, towns, counties may impose fees different from state building code.

19.27.030 National codes and standards—Adoption by reference—Conflicts. (Amendment effective July 1, 1976.) On and after January 1, 1975, there shall be in effect in all cities, towns and counties of the state a state building code which shall consist of the following codes which are hereby adopted by reference:

(1) Uniform Building Code and Related Standards, 1973 edition, published by the International Conference of Building Officials;

(2) Uniform Mechanical Code, 1973 edition, including Chapter 22, Fuel Gas Piping, Appendix B, published by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials;

(3) The Uniform Fire Code with appendices thereto, 1973 edition, published by the International Conference of Building Officials and the Western Fire Chiefs Association;

(4) The Uniform Plumbing Code, 1973 edition, published by the International Association of Plumbing and Mechanical Officials: *Provided*, That chapter 11 of such code is not adopted: *Provided*, That notwithstanding any wording in this code, nothing in this code shall apply to the installation of any gas piping, water heaters, or vents for water heaters; and

(5) The rules and regulations adopted by the council establishing standards for making buildings and facilities accessible to and usable by the physically handicapped or elderly persons as provided for in RCW 70.92.100 through 70.92.160.

In case of conflict among the codes enumerated in subsections (1), (2), (3) and (4) of this section, the first named code shall govern over those following. [1975 1st ex.s. c 110 § 8; 1974 ex.s. c 96 § 3.]

Effective date—1975 1st ex.s. c 110 §§ 8, 9 and 10: "Sections 8, 9, and 10 of this amendatory act shall take effect on July 1, 1976." [1975 1st ex.s. c 110 § 12.] This applies to the 1975 amendments to RCW 19.27.030 and 19.27.040 and to the repeal of RCW 70.92.010-70.92.060 and RCW 70.92A.010-70.92A.060.

Public buildings and accommodations, provisions for elderly and handicapped: Chapter 70.92 RCW.

19.27.040 Cities and counties authorized to amend state building code—Adopt revisions—Limitations. (Amendment effective July 1, 1976.) On and after January 1, 1975, the governing body of each city, town or county is authorized to amend the state building code as it applies within its jurisdiction in all such respects as shall be not less than the minimum performance standards and objectives enumerated in RCW 19.27.020, including, the authority to adopt any subsequent revisions to the codes in RCW 19.27.030 (1), (2), (3), and (4).

Nothing in this section shall authorize any modifications of the requirements of RCW 70.92.100 through 70.92.160. [1975 1st ex.s. c 110 § 9; 1974 ex.s. c 96 § 4.]

Effective date—1975 1st ex.s. c 110: The effective date of the amendment to this section by 1975 1st ex.s. c 110 § 9 was July 1, 1976, see note following RCW 19.27.030.

19.27.060 Local building regulations superseded—Exceptions. (1) Except as permitted or provided otherwise under the provisions of RCW 19.27.040 and subsections (3) and (4) of this section, the state building code supersedes all county, city or town building regulations containing less than the minimum performance standards and objectives contained in the state building code.

(2) Except as permitted or provided otherwise under the provisions of RCW 19.27.040 and subsections (3) and (4) of this section, the state building code shall be applicable to all buildings and structures including those owned by the state or by any other governmental subdivision.

(3) The governing body of each city, town or county may limit the application of any rule or regulation or portion of the state building code to include or exclude specified classes or types of buildings or structures, according to use, occupancy, or such other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable: *Provided*, That in no event shall fruits or vegetables of the tree or vine stored in buildings or warehouses, constitute combustible stock for the purposes of application of the uniform fire code.

(4) The provisions of this chapter shall not apply to any building four or more stories high with an F occupancy as defined by the uniform building code, chapter 6, 1973 edition, and with a fire insurance classification

rating of 1, 2, or 3 as defined by a recognized fire rating bureau or organization. [1975 1st ex.s. c 282 § 2; 1974 ex.s. c 96 § 6.]

19.27.080 Chapters of RCW not affected. Nothing in *this 1974 act shall affect the provisions of chapters 19-.28, 43.22, 70.77, 70.79, 70.87, 48.48, 18.20, 18.46, 18.51, 28A.02, 28A.04, 70.41, 70.62, 70.75, 70.108, 71.12, 74.15, 70.94, or 76.04 RCW or grant rights to duplicate the authorities provided under chapters 70.94 or 76.04 RCW. [1975 1st ex.s. c 282 § 1; 1974 ex.s. c 96 § 8.]

***Reviser's note:** "this 1974 act" consists of RCW 19.27.010-19.27-.090, and 70.92A.060. RCW 70.92A.060 was repealed by 1975 1st ex.s. c 110 § 10, effective July 1, 1976.

19.27.100 Cities, towns, counties may impose fees different from state building code. Nothing in this chapter shall prohibit a city, town, or county of the state from imposing fees different from those set forth in the state building code. [1975 1st ex.s. c 8 § 1.]

Chapter 19.28 ELECTRICIANS AND ELECTRICAL INSTALLATIONS

Sections

- 19.28.120 License required—General or specialty licenses—Fees—Application—Bond—Cash deposit in lieu of bond.
- 19.28.123 Board of electrical examiners—Created—Membership—Examinations—Meetings—Per diem.
- 19.28.125 Electrical contractors—Designee of firm to take examination—Certification duration, renewal, nontransferable.

19.28.120 License required—General or specialty licenses—Fees—Application—Bond—Cash deposit in lieu of bond. (1) It shall be unlawful for any person, firm, or corporation to engage in, conduct or carry on the business of installing wires or equipment to convey electric current, or installing apparatus to be operated by such current as it pertains to the electrical industry, without having an unrevoked, unsuspended and unexpired license so to do, issued by the director of labor and industries in accordance with the provisions of this chapter. All such licenses shall expire on the thirty-first day of December following the day of their issue. Application for such license shall be made in writing to the department of labor and industries, accompanied by the required fee, and shall state the name and address of the applicant, and in case of firms, the names of the individuals composing the firm, and in case of corporations, the name of the managing officials thereof, and shall state the location of the place of business of the applicant and the name under which such business is conducted, and shall state the type of license sought, whether a general or specialty electrical license, and if the latter, the type of specialty. A general electrical license shall grant to the holder thereof the right to engage in, conduct or carry on, the business of installing wires or equipment to carry electric current, and installing apparatus, or install material to fasten, or insulate such wires or equipment, to be operated by such current, in any and all places in the state of

Washington. A specialty electrical license shall grant to the holder thereof a limited right to engage in, conduct or carry on, the business of installing wires or equipment to carry electrical current, and installing apparatus, or to install material to fasten, or insulate such wires or equipment, to be operated by such current in the state of Washington as expressly allowed by such license. The application for such license shall be accompanied by a bond in the sum of three thousand dollars with the state of Washington named as obligee therein, with good and sufficient surety, to be approved by the attorney general. Said bond shall at all times be kept in full force and effect, and any cancellation or revocation thereof, or withdrawal of the surety therefrom, shall ipso facto revoke and suspend the license issued to the principal until such time as a new bond of like tenor and effect shall have been filed and approved as herein provided. Upon approval of said bond by the attorney general, the director of labor and industries shall on the next business day thereafter deposit the fee accompanying said application in the fund to be known and designated as the "electrical license fund". Upon approval of said bond by the attorney general, he shall transmit the same to the state electrical inspection division, who shall file said bond in the office, and upon application furnish to any person, firm or corporation a certified copy thereof, under seal, upon the payment of a fee of two dollars. Said bond shall be conditioned that in any installation of wires or equipment to convey electrical current, and apparatus to be operated by such current, the principal therein will comply with the provisions of this chapter and in case such installation is in an incorporated city or town having an ordinance, building code, or regulations prescribing equal, a higher or better standard, manner or method of such installation that the principal will comply with the provisions of such ordinance, building code or regulations governing such installations as may be in effect at the time of entering into a contract for such installation. Said bond shall be conditioned further that the principal will pay for all labor, including employee benefits, and material furnished or used upon such work, taxes and contributions to the state of Washington, and all damages that may be sustained by any person, firm or corporation due to a failure of the principal to make such installation in accordance with the provisions of this chapter, or any ordinance, building code or regulation applicable thereto. In lieu of the surety bond required by this section the license applicant may file with the director a cash deposit or other negotiable security acceptable to the director: *Provided, however,* If the license applicant has filed a cash deposit, the director shall deposit such funds in a special trust savings account in a commercial bank, mutual savings bank, or savings and loan association and shall pay annually to the depositor the interest derived from such account. The board of electrical examiners shall certify to the director of labor and industries all persons who are entitled to either a general or specialty electrical contractors' qualifying certificate. The director of labor and industries shall issue general

or specialty licenses to applicants meeting all of the requirements of this chapter. The provisions of this chapter relating to the licensing of any person, firm, or corporation, including the requirement of a bond with the state of Washington named as obligee therein and the collection of a fee therefor, shall be exclusive and no political subdivision of the state of Washington shall require or issue any licenses or bonds nor charge any fee for the same or a similar purpose: *Provided*, That no person holding more than one specialty license under the provisions of this chapter shall be required to pay an annual fee for more than one such license or shall be required to post more than one three thousand dollar bond or an equivalent cash deposit or other negotiable security.

(2) From and after *the effective date of this 1975 amendatory act to obtain a general or specialty contractor license the applicant must designate an individual who currently possesses an electrical qualifying certificate as a general electrical contractor or as to the specialty electrical contractor license for which application has been made. To obtain such a certificate an individual shall pass an examination as set forth in RCW 19.28.123 or, alternately, the applicant was a duly licensed electrical contractor at any time during 1974. As to those applicants who were duly licensed as electrical contractors by the state of Washington at any time during 1974 such applicants shall be entitled to receive a general electrical contractor qualifying certificate without examination. [1975 1st ex.s. c 195 § 1; 1975 1st ex.s. c 92 § 1; 1974 ex.s. c 188 § 1; 1971 ex.s. c 129 § 1; 1969 ex.s. c 71 § 2; 1969 c 30 § 1. Prior: 1967 ex.s. c 15 § 1; 1967 c 88 § 2; 1965 ex.s. c 117 § 3; 1963 c 207 § 2; 1959 c 325 § 1; 1935 c 169 § 4; RRS § 8307-4; prior: 1919 c 204 §§ 1, 2. Formerly RCW 19.28.120 through 19.28.170.]

***Reviser's note:** Section 1 of chapter 92, Laws of 1975 1st ex. sess. which amended this section was vetoed. This partial veto of said chapter 92 was overridden by chapter 195, Laws of 1975 1st ex. sess. Both chapters contained emergency sections.

Chapter 92, Laws of 1975 1st ex. sess. passed the House of Representatives on May 1, 1975; passed the Senate on May 15, 1975; and was partially vetoed May 27, 1975.

The partial veto was overridden by the House of Representatives on May 30, 1975 and by the Senate on June 8, 1975.

Severability—1975 1st ex.s. c 195, 1975 1st ex.s. c 92: "If any provision of this 1975 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." [1975 1st ex.s. c 195 § 4; 1975 1st ex.s. c 92 § 4.]

Effective date—1974 ex.s. c 188: "The effective date of this 1974 amendatory act is July 1, 1974." [1974 ex.s. c 188 § 6.] This applies to RCW 19.28.123, 19.28.125 and to the 1974 amendment to RCW 19.28.120.

Severability—1974 ex.s. c 188: "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 ex.s. c 188 § 5.] This applies to RCW 19.28.123, 19.28.125 and to the 1974 amendment to RCW 19.28.120.

Effective date—1971 ex.s. c 129: "The effective date of this 1971 amendatory act shall be December 1, 1971." [1971 ex.s. c 129 § 3.] This applies to the 1971 amendments to RCW 19.28.120 and 19.28.210.

19.28.123 Board of electrical examiners—Created—Membership—Examinations—Meetings—Per diem. There is hereby created a board of electrical examiners consisting of nine members to be appointed by the governor. It shall be the purpose and function of this board to establish in addition to a general electrical contractors' license, such classifications of specialty electrical contractors' licenses as it deems appropriate with regard to individual sections pertaining to state adopted codes in chapter 19.28 RCW. In addition, it shall be the purpose and function of this board to establish and administer written examinations for general electrical contractors' qualifying certificates and the various specialty electrical contractors' qualifying certificates. Examinations shall be designed to reasonably insure that general and specialty electrical contractor's qualifying certificate holders are competent to engage in and supervise the work covered by this statute and their respective licenses. The examinations shall include questions from the following categories to assure proper safety and protection for the general public: (1) Safety, (2) state electrical code, and (3) electrical theory. Meetings of the board shall be held quarterly on the first Monday of February, May, August and November of each year. Each member of the board shall be paid a per diem of twenty-five dollars for each day or portion thereof that the board is in session and each member shall receive in addition thereto his necessary and reasonable transportation and other expenses as provided in chapter 43.03 RCW, which shall be paid out of the electrical license fund, upon vouchers approved by the director of labor and industries. [1975 1st ex.s. c 195 § 2; 1975 1st ex.s. c 92 § 2; 1974 ex.s. c 188 § 2.]

Severability—1975 1st ex.s. c 195, 1975 1st ex.s. c 92: See note following RCW 19.28.120.

Effective date—Severability—1974 ex.s. c 188: See notes following RCW 19.28.120.

19.28.125 Electrical contractors—Designee of firm to take examination—Certification duration, renewal, nontransferable. Each applicant, other than an individual, shall designate a supervisory employee or member of the firm to take the required examination. This person shall be designated as administrator under the license. No person may qualify as administrator for more than one contractor. If the relationship of the administrator with the applicant firm or corporation is terminated, the license is void within ninety days unless another administrator is qualified by the board. A certification issued under this chapter is valid for the calendar year of issuance, unless revoked or suspended, and further is nontransferable. The certification may be renewed without examination by appropriate application unless the certificate has been revoked, suspended, or not renewed within thirty days: *Provided*, That an individual holding any certification(s) under the provisions of this chapter shall not be required to pay annual fees for more than one certificate. [1975 1st ex.s. c 195 § 3; 1975 1st ex.s. c 92 § 3; 1974 ex.s. c 188 § 4.]

Severability—1975 1st ex.s. c 195, 1975 1st ex.s. c 92: See note following RCW 19.28.120.

Effective date—Severability—1974 ex.s. c 188: See notes following RCW 19.28.120.

Chapter 19.31 EMPLOYMENT AGENCIES

Sections

19.31.140 Fees for licensees.

19.31.140 Fees for licensees. The director shall determine the fees, as provided in RCW 43.24.085 as now or hereafter amended, charged to those parties licensed as employment agencies for original applications, renewal per year, branch license, both original and renewal, transfer of license, and approval of amended or new contracts and/or fee schedules. [1975 1st ex.s. c 30 § 92; 1969 ex.s. c 228 § 14.]

Chapter 19.52 INTEREST—USURY

Sections

19.52.080 Defense of usury or maintaining action thereon prohibited if transaction exclusively commercial or business—Exceptions.

19.52.080 Defense of usury or maintaining action thereon prohibited if transaction exclusively commercial or business—Exceptions. Corporations, Massachusetts trusts, associations, trusts, general partnerships, joint ventures, limited partnerships, and persons may not plead the defense of usury nor maintain any action thereon or therefor if the transaction was exclusively for commercial or business purposes: *Provided, however,* That this section shall not apply to a consumer transaction of any amount, or to a commercial or business transaction not exceeding fifty thousand dollars.

Consumer transactions, as used in this section, shall mean transactions primarily for personal, family, or household purposes. [1975 1st ex.s. c 180 § 1; 1970 ex.s. c 97 § 2; 1969 ex.s. c 142 § 1.]

Chapter 19.89 FAIR TRADE ACT

Sections

19.89.010 through 19.89.910 Repealed.

19.89.010 through 19.89.910 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 19.91 UNFAIR CIGARETTE SALES ACT

Sections

19.91.080 Determining "cost to the retailer" and "cost to the wholesaler" when person complained against.
19.91.130 Wholesalers, retailers licenses—Issuance by department of revenue—Duration.
19.91.140 Wholesaler license fee—Display of license—Wholesaler's bond.
19.91.150 Retailer license fee—Vending machine fee.

19.91.180 Administration of chapter—Rules—Revocation, suspension, reinstatement of license, procedure—Appeals.

19.91.080 Determining "cost to the retailer" and "cost to the wholesaler" when person complained against.

(1) In determining "cost to the retailer" and "cost to the wholesaler" the department of revenue or a court shall receive and consider as bearing on the bona fides of the cost, evidence tending to show that any person complained against under any of the provisions of this chapter purchased cigarettes, with respect to the sale of which complaint is made, at a fictitious price, or upon terms, or in such a manner, or under such invoices, as to conceal the true cost, discounts or terms of purchase, and shall also receive and consider as bearing on the bona fides of such cost, evidence of the normal, customary and prevailing terms and discounts in connection with other sales of a similar nature in the trade area or state.

(2) Merchandise given gratis or payment made to a retailer or wholesaler by the manufacturer thereof for display, or advertising, or promotion purposes, or otherwise, shall not be considered in determining the cost of cigarettes to the retailer or wholesaler. [1975 1st ex.s. c 278 § 13; 1957 c 286 § 8.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

19.91.130 Wholesalers, retailers licenses—Issuance by department of revenue—Duration. The licenses issuable by the department of revenue under this chapter shall be as follows:

- (1) Wholesalers license.
- (2) Retailers license.

All licenses shall be issued by the department of revenue, which shall make rules and regulations respecting applications therefor and issuance thereof. The department of revenue may refrain from the issuance of any license under this chapter, where it has reasonable cause to believe that the applicant has wilfully withheld information requested of him for the purpose of determining the eligibility of the applicant to receive a license, or where it has reasonable cause to believe that information submitted in the application is false or misleading or is not made in good faith. Each such license shall lapse on the last day of June of the period for which it is issued, and each such license shall be continued annually upon the conditions that the licensee shall have paid the required fee and complied with all the provisions of this chapter and the rules and regulations of the department of revenue made pursuant thereto. [1975 1st ex.s. c 278 § 14; 1957 c 286 § 13.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

19.91.140 Wholesaler license fee—Display of license—Wholesaler's bond. For each license issued to a wholesaler, and for each continuance thereof, there shall be paid to the department of revenue a fee of three hundred dollars. If a wholesaler sells or intends to

sell cigarettes at two or more places of business, whether established or temporary, a separate license with a license fee of twenty-five dollars shall be required for each additional place of business. Each license, or certificate thereof, and such other evidence of license as the department of revenue shall require, shall be exhibited in the place of business for which it is issued and in such manner as may be prescribed by the department of revenue. The department of revenue shall require each licensed wholesaler to file with him a bond in an amount not less than one thousand dollars to guarantee the proper performance of his duties and the discharge of his liabilities under this chapter. The bond shall be executed by such licensed wholesaler as principal, and by a corporation approved by the department of revenue and authorized to engage in business as a surety company in this state, as surety. The bond shall run concurrently with the wholesaler's license. [1975 1st ex.s. c 278 § 15; 1957 c 286 § 14.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

19.91.150 Retailer license fee—Vending machine fee. For each license issued to a retail dealer and for each continuance thereof, there shall be paid to the department of revenue a fee of five dollars. For each license issued to a retail dealer operating a cigarette vending machine, and for each continuance thereof, there shall be paid to the department of revenue a fee of one additional dollar for each vending machine. [1975 1st ex.s. c 278 § 16; 1957 c 286 § 15.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

19.91.180 Administration of chapter—Rules—Revocation, suspension, reinstatement of license, procedure—Appeals. (1) In addition to the penalties and rights imposed and set forth in RCW 19.91.020 and 19.91.110, the department of revenue may enforce the provisions of this chapter. The department of revenue shall have the power to adopt, amend and repeal rules and regulations necessary to enforce and administer the provisions of this chapter. The department of revenue is given full power and authority to revoke or suspend the license or permit of any wholesale or retail cigarette dealer in the state of Washington upon sufficient cause appearing of the violation of this chapter or upon the failure of such licensee or permittee to comply with any of the provisions of this chapter.

(2) No license or licenses shall be suspended or revoked except upon notice to the licensee and after a hearing as prescribed by said department of revenue. The said department of revenue, upon a finding by same, that the licensee has failed to comply with any provision of this chapter or any rule or regulation promulgated thereunder, shall, in the case of the first offender, suspend the license or licenses of the said licensee for a period of not less than five nor more than twenty consecutive business days, and, in the case of a second or plural offender, shall suspend said license or licenses for a period of not less than twenty consecutive business days nor more than twelve months, and, in the

event the said department of revenue finds the offender has been guilty of wilful and persistent violations, it may revoke said person's license or licenses.

(3) Any person whose license or licenses have been so revoked may apply to the department of revenue at the expiration of one year for a reinstatement of his license or licenses. Such license or licenses may be reinstated by the department of revenue if it shall appear to the satisfaction of said department of revenue that the licensee will comply with the provisions of this chapter and the rules and regulations promulgated thereunder.

(4) No person whose license has been suspended or revoked shall sell cigarettes or permit cigarettes to be sold during the period of such suspension or revocation on the premises occupied by him or upon other premises controlled by him or others or in any other manner or form whatever.

(5) Any determination and order by the department of revenue, and any order of suspension or revocation by the department of revenue of the license or licenses, or refusal to reinstate a license or licenses after revocation shall be reviewable by an appeal to the superior court of Thurston county in and for the state of Washington. Said superior court shall review the order or ruling of the department of revenue and may hear the matter de novo, having due regard to the provisions of this chapter, and the duties imposed upon the department of revenue. Said review by the superior court, and any order entered thereon by said superior court, shall be appealable under and by virtue of the procedural law of this state. [1975 1st ex.s. c 278 § 17; 1957 c 286 § 18.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 19.94

WEIGHTS AND MEASURES—1969 ACT

Sections

19.94.420 Fluid dairy products to be packaged for retail sale in certain units.

19.94.420 Fluid dairy products to be packaged for retail sale in certain units. All fluid dairy products, including but not limited to whole milk, skimmed milk, cultured milk, sweet cream, sour cream and buttermilk and all fluid imitation and fluid substitute dairy products shall be packaged for retail sale only in units as provided by the director of the department of agriculture by regulation pursuant to the provisions of chapter 34.04 RCW. [1975 1st ex.s. c 51 § 1; 1969 c 67 § 42.]

Chapter 19.98

FARM IMPLEMENTS, MACHINERY, PARTS

Sections

19.98.010 Contracts between retailer and wholesaler—Cancellation—Repurchase payments for unsold merchandise—Amounts—Return—Application of section.

19.98.020 Repurchase payments—Liens and claims.

19.98.030 Prices—How determined.

19.98.040 Failure or refusal to make payments—Civil action.

19.98.900 Effective date—1975 1st ex.s. c 277.

19.98.910 Severability—1975 1st ex.s. c 277.

19.98.010 Contracts between retailer and wholesaler—Cancellation—Repurchase payments for unsold merchandise—Amounts—Return—Application of section. Whenever any person, firm, or corporation engaged in the retail sale of farm implements and repair parts therefor enters into a written contract with any wholesaler, manufacturer, or distributor of farm implements, machinery, attachments, accessories, or repair parts whereby such retailer agrees to maintain a stock of parts or complete or whole machines, attachments, or accessories, and either party to such contract desires to cancel or discontinue the contract, unless the retailer should desire to keep such merchandise the manufacturer, wholesaler, or distributor shall pay the retailer for the merchandise. Such payment shall be in the amount of one hundred percent of the net cost of all current unused complete farm implements, machinery, attachments, and accessories, including transportation charges paid by the retailer, and eighty-five percent of the current net prices on repair parts, including superseded parts listed in current price lists or catalogs which parts had previously been purchased from such wholesaler, manufacturer, or distributor and held by such retailer on the date of the cancellation or discontinuance of such contract or thereafter received by such retailer from the wholesaler, manufacturer, or distributor. The wholesaler, manufacturer, or distributor shall also pay such retailer a sum equal to five percent of the current net price of all parts returned for the handling, packing, and loading of such parts for return: *Provided*, That the provisions of this section shall apply only to repair parts which are new, unused, and in good condition. Upon the payment of such amounts, the title to such farm implements, farm machinery, attachments, accessories, or repair parts, shall pass to the manufacturer, wholesaler, or distributor making such payment, and such manufacturer, wholesaler, or distributor shall be entitled to the possession of such merchandise.

The provisions of this section shall apply to any annual part return adjustment agreement made between a seller or retailer and a manufacturer, wholesaler, or distributor.

The provisions of this section shall be supplemental to any agreement between the retailer and the manufacturer, wholesaler, or distributor covering the return of farm implements, machinery, attachments, accessories, and repair parts so that the retailer can elect to pursue either his contract remedy or the remedy provided herein, and an election by the retailer to pursue his contract remedy shall not bar his right to the remedy provided herein as to those farm implements, machinery, attachments, accessories, and repair parts not affected by the contract remedy.

The provisions of this section shall apply to all contracts now in effect which have no expiration date and are a continuing contract, and all other contracts entered into or renewed after January 1, 1976. Any contract in force and effect on January 1, 1976, which by its own terms will terminate on a date subsequent thereto shall be governed by the law as it existed prior

to this chapter: *Provided*, That no contract covered by this chapter may be cancelled by any party without good cause. Good cause shall include, but shall not be restricted to, the failure of any party to comply with the lawful provisions of the contract, the adjudication of any party to a contract as a bankrupt, wrongful refusal of manufacturer, wholesaler, or distributor to supply farm machinery, farm implements and repair parts therefor. [1975 1st ex.s. c 277 § 1.]

19.98.020 Repurchase payments—Liens and claims. All repurchase payments to retailers and sellers made pursuant to RCW 19.98.010 shall be less amounts owed on any lien or claim then outstanding upon such items covered by this section. Any wholesaler, manufacturer, or distributor making repurchase payments covered by this chapter to any retailer or seller shall satisfy such secured liens or claims pursuant to chapter [article] 62A.9 RCW less any interest owed to the lienholder arising from the financing of such items which shall be paid to any such secured lienholder by the retailer or seller. In no case shall the wholesaler, manufacturer, or distributor, in making payments covered by RCW 19.98.010, pay in excess of those amounts prescribed therein. [1975 1st ex.s. c 277 § 2.]

19.98.030 Prices—How determined. The prices of farm implements, machinery and repair parts therefor, required to be paid to any retail dealer as provided in RCW 19.98.010 shall be determined by taking one hundred percent of the net cost on farm implements, machinery, and attachments, and eighty-five percent of the current net price of repair parts therefor as shown upon the manufacturer's, wholesaler's, or distributor's price lists or catalogues in effect at the time such contract is canceled or discontinued. [1975 1st ex.s. c 277 § 3.]

19.98.040 Failure or refusal to make payments—Civil action. In the event that any manufacturer, wholesaler, or distributor of farm machinery, farm implements, and repair parts therefor, upon cancellation or discontinuation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, fails or refuses to make payment to such dealer as is required by RCW 19.98.010, such manufacturer, wholesaler, or distributor shall be liable in a civil action to be brought by such retailer for such payments as are required by RCW 19.98.010. [1975 1st ex.s. c 277 § 4.]

19.98.900 Effective date—1975 1st ex.s. c 277. This act shall take effect on January 1, 1976. [1975 1st ex.s. c 277 § 6.]

19.98.910 Severability—1975 1st ex.s. c 277. 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. [1975 1st ex.s. c 277 § 7.]

**Chapter 19.105
CAMPING CLUBS**

Sections

- 19.105.045 Promotion and selling permit—Duration—Renewal—Fee—Conditions.
 19.105.120 Selling membership in camping club for which promotion permit not in force prohibited—Exception.
 19.105.210 Making false or misleading statements prohibited.
 19.105.220 Violations—Penalty—Time limitation.
 19.105.230 Violations—Referral to attorney general or prosecuting attorney—Action by director.
 19.105.240 Punishment under other law not limited.
 19.105.250 Investigations authorized—Publication of violations.
 19.105.260 Investigations—Powers of director and superior courts.
 19.105.270 Violations—Cease and desist orders—Procedure—Injunctions.

19.105.045 Promotion and selling permit—Duration—Renewal—Fee—Conditions. A permit to promote and sell camping club memberships shall be effective for one year from the date it is issued. The permit may be renewed for additional periods of one year by the payment of a filing fee of fifty dollars and filing with the director, no later than twenty days prior to the expiration thereof, a renewal application containing such information as the director may require to indicate any substantial changes from the information contained in the original application: *Provided*, That the director is not authorized to impose additional material substantive rules upon a permit holder as a condition for the issuance of a renewal permit under this section. A permit to promote and sell camping club memberships for which a renewal application has been regularly filed and the filing fee paid is renewed on the anniversary date of its original issuance unless written notice to the contrary has been mailed to the promoter by the director three days prior to that anniversary date. The director may require the filing of a revised offering circular as a condition of renewal. Further, the director may require the filing of current financial statements within one hundred twenty days of the end of the promoter's fiscal year.

Any permit to promote and sell camping club memberships issued prior to September 8, 1975 shall be subject to the renewal provisions of this section upon the anniversary date of the issuance of the original permit. [1975 1st ex.s. c 150 § 9.]

19.105.120 Selling membership in camping club for which promotion permit not in force prohibited—Exception. It shall be unlawful for any person to sell or offer to sell a membership or an option to purchase a membership in a camping club for which a promotion permit is not currently in force unless the membership being sold is held by a member for his own personal use as a bona fide membership in the camping club. [1975 1st ex.s. c 150 § 1; 1972 ex.s. c 106 § 12.]

19.105.210 Making false or misleading statements prohibited. It is unlawful for any person to make or cause to be made, in any document filed with the director or in any proceeding under this chapter, any

statement that is, at the time and in light of the circumstances under which it is made, false or misleading in any material respect. [1975 1st ex.s. c 150 § 2.]

19.105.220 Violations—Penalty—Time limitation. Any person who wilfully violates any provisions of this chapter or any rules or order under this chapter commits a gross misdemeanor; but no person may be convicted for the violation of any order if he proves that he had no knowledge of the order. No indictment or information may be returned under this chapter more than five years after the alleged violation. [1975 1st ex.s. c 150 § 3.]

19.105.230 Violations—Referral to attorney general or prosecuting attorney—Action by director. The director may refer such evidence as may be available concerning violations of this chapter or of any rule or order hereunder to the attorney general or the proper prosecuting attorney who may in his discretion, with or without such a reference, institute the appropriate civil or criminal proceedings under this chapter. [1975 1st ex.s. c 150 § 4.]

19.105.240 Punishment under other law not limited. Nothing in this chapter limits the power of the state to punish any person for any conduct which constitutes a crime by statute or at common law. [1975 1st ex.s. c 150 § 5.]

19.105.250 Investigations authorized—Publication of violations. The director in his discretion (1) may annually, or more frequently, make such public or private investigations within or without this state as he deems necessary to determine whether any registration should be granted, denied or revoked or whether any person has violated or is about to violate any provisions of this chapter or any rule or order hereunder, or to aid in the enforcement of this chapter or in the prescribing of rules and forms hereunder and (2) may publish information concerning any violation of this chapter or any rule or order hereunder. [1975 1st ex.s. c 150 § 6.]

19.105.260 Investigations—Powers of director and superior courts. For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

In case of disobedience on the part of any person to comply with any subpoena lawfully issued by the director, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, the superior court of any county or the judge thereof, on application of the director, and after satisfactory evidence of wilful disobedience, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from

such a court on a refusal to testify therein. [1975 1st ex.s. c 150 § 7.]

19.105.270 Violations—Cease and desist orders—Procedure—Injunctions. Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, he may in his discretion:

(1) Issue an order directing the person to cease and desist from continuing the act or practice: *Provided*, That reasonable notice of and opportunity for a hearing shall be given: *Provided, further*, That the director may issue a temporary order pending the hearing which shall be effective upon delivery to the person affected and which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after receipt of notice; or

(2) The director may without issuing a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The director may not be required to post a bond. [1975 1st ex.s. c 150 § 8.]

Title 20

COMMISSION MERCHANTS— AGRICULTURAL PRODUCTS

Chapters

20.01 Agricultural products—Commission merchants, dealers, brokers, buyers, agents.

Chapter 20.01

AGRICULTURAL PRODUCTS—COMMISSION MERCHANTS, DEALERS, BROKERS, BUYERS, AGENTS

Sections

20.01.030 Exemptions.

20.01.030 Exemptions. This chapter does not apply to:

(1) Any cooperative marketing associations or federations incorporated under, or whose articles of incorporation and bylaws are equivalent to, the requirements of chapter 23.86 RCW or chapter 24.32 RCW, except as to that portion of the activities of such association or federation as involves the handling or dealing in the agricultural products of nonmembers of such organization: *Provided*, That such associations or federations may purchase up to fifteen percent of their gross from nonmembers for the purpose of filling orders: *Provided further*, That if such cooperative or association acts as a processor as defined in RCW 20.01.500(2) and markets

such processed agricultural crops on behalf of the grower or its own behalf, said association or federation shall be subject to the provisions of RCW 20.01.500 through 20.01.560 and the license provision of this chapter excluding bonding provisions: *Provided further*, That none of the foregoing exemptions in this subsection shall apply to any such cooperative or federation dealing in or handling grain in any manner, and not licensed under the provisions of chapter 22.09 RCW.

(2) Any person who sells exclusively his own agricultural products as the producer thereof.

(3) Any public livestock market operating under a bond required by law or a bond required by the United States to secure the performance of such public livestock market's obligation.

(4) Any retail merchant having bona fide fixed or permanent place of business in this state.

(5) Any person buying farm products for his own use or consumption.

(6) Any warehouseman or grain dealer licensed under the state grain warehouse act.

(7) Any nurseryman who is required to be licensed under the horticultural laws of the state with respect to his operations as such licensee.

(8) Any person licensed under the now existing dairy laws of the state with respect to his operations as such licensee.

(9) Any producer who purchases less than fifteen percent of his volume to fill orders. [1975 1st ex.s. c 7 § 18; 1971 ex.s. c 182 § 2; 1969 ex.s. c 132 § 1; 1967 c 240 § 41; 1959 c 139 § 3.]

Title 21

SECURITIES AND INVESTMENTS

Chapters

21.20 Securities act of Washington.

Chapter 21.20

SECURITIES ACT OF WASHINGTON

Sections

DEFINITIONS

21.20.005 Definitions.

REGISTRATION OF BROKER-DEALERS, SALESMEN, AND INVESTMENT ADVISERS, SALESMEN

21.20.040 Registration required—Exemptions.

21.20.050 Application for registration—Consent to service of process.

21.20.070 When registration effective—Written examinations.

21.20.080 Duration of registration—Association with issuer, broker-dealer or investment adviser—Extension of licensing period.

21.20.090 Renewal of registration—Financial statement—Application for a successor.

21.20.110 Denial, suspension, revocation of registration—Grounds.

21.20.120 Denial, suspension, revocation of registration—Order—Request for, notice of hearing—Findings and conclusions.

21.20.130 Cancellation of registration or application—Grounds.

REGISTRATION OF SECURITIES

21.20.140 Unlawful to offer or sell unregistered securities—
Exceptions.

REGISTRATION BY NOTIFICATION

21.20.150 through 21.20.170 Repealed.

REGISTRATION BY QUALIFICATION

21.20.230 Time of taking effect of registration statement by quali-
fication—Conditions.

REGISTRATION OF RESTRICTED REAL ESTATE
SECURITIES

21.20.235 Restricted real estate securities—Registration under
section authorized—Definition—Limitation.

GENERAL PROVISIONS REGARDING REGISTRATION OF
SECURITIES

21.20.240 Registration statements—Generally.

21.20.260 Registration by coordination or qualification—Offer
and sale—Duration of effectiveness.

21.20.270 Reports by filer of statement—Fee—Annual finan-
cial statements.

DENIAL, SUSPENSION AND REVOCATION OF
REGISTRATION OF SECURITIES

21.20.280 Stop orders—Grounds.

EXEMPT SECURITIES

21.20.310 Securities exempt from registration.

EXEMPT TRANSACTIONS

21.20.320 Exempt transactions—Denial, revocation of certain
exemptions.

EXEMPT SECURITIES AND TRANSACTIONS

21.20.325 Denial, revocation, condition, of exemptions—Au-
thority—Procedure.

CONSENT TO SERVICE OF PROCESS

21.20.330 Consent to service of process—Service, how made.

INTEREST

21.20.335 Interest charged by broker-dealers—Margin account
debit balances.

FEES

21.20.340 Fees—Disposition.

UNLAWFUL REPRESENTATIONS CONCERNING
REGISTRATION OR EXEMPTION

21.20.360 Filing, registration, statement, exemption not conclusive
as to truth or completeness—Unlawful
representations.

INVESTIGATIONS AND SUBPOENAS

21.20.380 Oaths—Subpoenas—Compelling obedience—
Punishment.

INJUNCTIONS AND OTHER REMEDIES

21.20.390 Injunction, cease and desist order, restraining order,
mandamus—Appointment of receiver or conserva-
tor for insolvent—Restitution or damages.

CIVIL LIABILITIES

21.20.430 Civil liabilities—Survival, limitation of actions—
Waiver of chapter void.

ADMINISTRATION OF CHAPTER

21.20.450 Administration of chapter—Rules and forms, publica-
tion—Cooperation with other state and federal
authorities.

DEFINITIONS

21.20.005 Definitions. When used in this chapter,
unless the context otherwise requires:

(1) "Director" means the *director of licenses of this
state.

(2) "Salesman" means any individual other than a
broker-dealer who represents a broker-dealer or issuer
in effecting or attempting to effect sales of securities,
but "salesman" does not include an individual who
represents an issuer in (a) effecting a transaction in a
security exempted by RCW 21.20.310(1), (2), (3), (4),
(9), or (10), (b) effecting transactions exempted by
RCW 21.20.320, or (c) effecting transactions with exist-
ing employees, partners, or directors of the issuer if no
commission or other remuneration is paid or given di-
rectly or indirectly for soliciting any person in this state.

(3) "Broker-dealer" means any person engaged in the
business of effecting transactions in securities for the
account of others or for his own account. "Broker-
dealer" does not include (a) a salesman, issuer, bank,
savings institution, or trust company, (b) a person who
has no place of business in this state if he effects trans-
actions in this state exclusively with or through the is-
suers of the securities involved in the transactions, other
broker-dealers, or banks, savings institutions, trust
companies, insurance companies, investment companies
as defined in the investment company act of 1940, pen-
sion or profit-sharing trusts, or other financial institu-
tions or institutional buyers, whether acting for
themselves or as trustees, or (c) a person who has no
place of business in this state if during any period of
twelve consecutive months he does not direct more than
fifteen offers to sell or to buy into this state in any
manner to persons other than those specified in subsec-
tion (b) above.

(4) "Guaranteed" means guaranteed as to payment of
principal, interest, or dividends.

(5) "Full business day" means all calendar days, ex-
cluding therefrom Saturdays, Sundays, and all legal
holidays, as defined by statute.

(6) "Investment adviser" means any person who, for
compensation, engages in the business of advising oth-
ers, either directly or through publications or writings,
as to the value of securities or as to the advisability of
investing in, purchasing, or selling securities, or who,
for compensation and as a part of a regular business,
issues or promulgates analyses or reports concerning
securities. "Investment adviser" does not include (a) a
bank, savings institution, or trust company, (b) a law-
yer, accountant, engineer, or teacher whose perfor-
mance of these services is solely incidental to the
practice of his profession, (c) a broker-dealer, (d) a
publisher of any bona fide newspaper, news magazine,
or business or financial publication of general, regular,
and paid circulation, (e) a person whose advice, analy-
ses, or reports relate only to securities exempted by
RCW 21.20.310(1), (f) a person who has no place of
business in this state if (i) his only clients in this state
are other investment advisers, broker-dealers, banks,
savings institutions, trust companies, insurance compa-
nies, investment companies as defined in the investment
company act of 1940, pension or profit-sharing trust, or
other financial institutions or institutional buyers,
whether acting for themselves or as trustees, or (ii) dur-
ing any period of twelve consecutive months he does
not direct business communications into this state in
any manner to more than five clients other than those

specified in clause (i) above, or (g) such other persons not within the intent of this paragraph as the director may by rule or order designate.

(7) "Issuer" means any person who issues or proposes to issue any security, except that with respect to certificates of deposit, voting trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type; the term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which the security is issued.

(8) "Nonissuer" means not directly or indirectly for the benefit of the issuer.

(9) "Person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interest of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government.

(10) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value. "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value. A purported gift of assessable stock is considered to involve an offer and sale. Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(11) "Securities Act of 1933", "Securities Exchange Act of 1934", "Public Utility Holding Company Act of 1935", and "Investment Company Act of 1940" means the federal statutes of those names as amended before or after the **effective date of this chapter.

(12) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under such a title or lease; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; or any sale of or indenture, bond or contract for the conveyance of land

or any interest therein where such land is situated outside of the state of Washington and such sale or its offering is not conducted by a real estate broker licensed by the state of Washington. "Security" does not include any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or some other specified period.

(13) "State" means any state, territory, or possession of the United States, as well as the District of Columbia and Puerto Rico.

(14) "Investment adviser salesman" means a person retained or employed by an investment adviser to solicit clients or offer the services of the investment adviser or manage the accounts of said clients. [1975 1st ex.s. c 84 § 1; 1967 c 199 § 1; 1961 c 37 § 1; 1959 c 282 § 60.]

Reviser's note: *(1) The powers, duties and functions of the director and department of licenses were transferred to the director and department of motor vehicles by chapter 156, Laws of 1965 (chapter 46.01 RCW). Section 42 of chapter 170, Laws of 1965 ex.s. (RCW 43-.24.024) provided for the delegation of powers, duties and functions pertaining to administration of securities to the division of professional licensing of the department of motor vehicles.

These powers, duties and functions devolved to the business and professional licensing administration of the department of motor vehicles by 1969 ex.s. c 281 § 34 (RCW 46.01.050).

***(2) The "effective date of this chapter" (1959 c 282) was midnight, June 10, 1959, see preface 1959 session laws.

REGISTRATION OF BROKER-DEALERS, SALESMEN, AND INVESTMENT ADVISERS, SALESMEN

21.20.040 Registration required—Exemptions. It is unlawful for any person to transact business in this state as a broker-dealer or salesman, except in transactions exempt under RCW 21.20.320, unless he is registered under this chapter: *Provided*, That an exemption from registration as a broker-dealer or salesman to sell or resell condominium units sold in conjunction with an investment contract, may be provided by rule or regulation of the director as to persons who are licensed pursuant to the provisions of chapter 18.85 RCW. It is unlawful for any broker-dealer or issuer to employ a salesman unless the salesman is registered or exempted from registration. It is unlawful for any person to transact business in this state as an investment adviser unless (1) he is so registered under this chapter, or (2) he is registered as a broker-dealer under this chapter, or (3) his only clients in this state are investment companies as defined in the Investment Company Act of 1940, or insurance companies. It is unlawful for any person to transact business in this state as an investment adviser salesman or for any investment adviser to employ an investment adviser salesman unless such person is registered. [1975 1st ex.s. c 84 § 2; 1974 ex.s. c 77 § 1; 1959 c 282 § 4.]

Effective date—1974 ex.s. c 77: "This 1974 amendatory act shall take effect on July 1, 1974." [1974 ex.s. c 77 § 14.] This applies to RCW 21.20.040, 21.20.070, 21.20.135, 21.20.230, 21.20.260, 21.20.275, 21.20.320, 21.20.325, 21.20.340, 21.20.380, 21.20.390, 21.20.430, and 21.20.435.

Insurance, solicitation permits for sale of securities: RCW 48.06.090.

21.20.050 Application for registration—Consent to service of process. A broker-dealer, salesman, investment adviser, or investment adviser salesman may apply for registration by filing with the director an application together with a consent to service of process in such form as the director shall prescribe and payment of the fee prescribed in RCW 21.20.340. [1975 1st ex.s. c 84 § 3; 1961 c 37 § 2; 1959 c 282 § 5.]

21.20.070 When registration effective—Written examinations. If no denial order is in effect and no proceeding is pending under RCW 21.20.110, registration becomes effective when the applicant has successfully passed the written examination required under this section or satisfactorily demonstrated that he is exempt from the written examination requirements of this section. The director shall require as a condition of registration that the applicant (and, in the case of a corporation or partnership, all officers, directors or partners doing securities business in this state) pass a written examination as evidence of knowledge of the securities business: *Provided*, That not more than two officers of an issuer or two individual general partners or two officers of a corporate general partner may be registered as a salesman for a particular original offering of the issuer's securities without being required to pass such written examination: *And provided further*, That no such person may again register within five years as such salesman for this or any other issuer without passing the written examination. Such examination shall be given twice a year or at such more frequent intervals as the advisory committee shall direct.

Any applicant for registration as a salesman who has successfully passed, within the preceding five years, a salesman examination by a national securities association registered under the Securities and Exchange Act of 1934, (15 U.S.C. Sec. 78-a-78jj), and since the passage of such examination, has been employed by broker-dealers, who were at the time of said employment members of such an association or duly licensed in accordance with this chapter, are exempt from the written examination requirements of this section, unless otherwise provided by rule or order of the director. [1975 1st ex.s. c 84 § 4; 1974 ex.s. c 77 § 2; 1959 c 282 § 7.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

21.20.080 Duration of registration—Association with issuer, broker-dealer or investment adviser—Extension of licensing period. Registration of a broker-dealer, salesman, investment adviser salesman, or investment adviser shall be effective until March 1st of the following year and may be renewed as hereinafter provided. The registration of a salesman or investment adviser salesman is not effective during any period when the salesman is not associated with an issuer or a registered broker-dealer or when the investment adviser salesman is not associated with a registered investment adviser. To be associated with an issuer, broker-dealer or investment adviser within the meaning of this section written notice must be given to the director. When a salesman begins or terminates an association with an

issuer or registered broker-dealer, the salesman and the issuer or broker-dealer shall promptly notify the director. When an investment adviser salesman begins or terminates an association with a registered investment adviser, the investment adviser salesman and registered investment adviser shall promptly notify the director.

Notwithstanding any provision of law to the contrary, the director may, from time to time, extend the duration of a licensing period for the purpose of staggering renewal periods. Such extension of a licensing period shall be by rule or regulation adopted in accordance with the provisions of chapter 34.04 RCW. Such rules and regulations may provide a method for imposing and collecting such additional proportional fee as may be required for the extended period. [1975 1st ex.s. c 84 § 5; 1959 c 282 § 8.]

21.20.090 Renewal of registration—Financial statement—Application for a successor. Registration of a broker-dealer, salesman, investment adviser salesman, or investment adviser may be renewed by filing with the director prior to the expiration thereof an application containing such information as the director may require to indicate any material change in the information contained in the original application or any renewal application for registration as a broker-dealer, salesman, investment adviser salesman, or investment adviser filed with the director by the applicant, payment of the prescribed fee, and, in the case of a broker-dealer, a financial statement showing the financial condition of such broker-dealer as of a date within ninety days. A registered broker-dealer or investment adviser may file an application for registration of a successor, and the administrator may at his discretion grant or deny the application. [1975 1st ex.s. c 84 § 6; 1961 c 37 § 3; 1959 c 282 § 9.]

21.20.110 Denial, suspension, revocation of registration—Grounds. The director may by order deny, suspend, or revoke registration of any broker-dealer, salesman, investment adviser salesman, or investment adviser if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, any partner, officer, or director:

- (1) Has filed an application for registration under this section which, as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in the light of the circumstances under which it was made, false, or misleading with respect to any material fact;
- (2) Has wilfully violated or wilfully failed to comply with any provision of this chapter or a predecessor act or any rule or order under this chapter or a predecessor act;
- (3) Has been convicted, within the past five years, of any misdemeanor involving a security or any aspect of the securities business, or any felony involving moral turpitude;
- (4) Is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or

continuing any conduct or practice involving any aspect of the securities business:

(5) Is the subject of an order of the director denying, suspending, or revoking registration as a broker-dealer, salesman, investment adviser, or investment adviser salesman;

(6) Is the subject of an order entered within the past five years by the securities administrator of any other state or by the federal securities and exchange commission denying or revoking registration as a broker-dealer or salesman, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the federal securities and exchange commission suspending or expelling him from a national securities exchange or national securities association registered under the securities exchange act of 1934, or is the subject of a United States post office fraud order; but (a) the director may not institute a revocation or suspension proceeding under this clause more than one year from the date of the order relied on, and (b) he may not enter any order under this clause on the basis of an order unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) Has engaged in dishonest or unethical practices in the securities business;

(8) Is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the director may not enter an order against a broker-dealer or investment adviser under this clause without a finding of insolvency as to the broker-dealer or investment adviser; or

(9) Has not complied with a condition imposed by the director under RCW 21.20.100, or is not qualified on the basis of such factors as training, experience, or knowledge of the securities business; or

(10) The director may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. [1975 1st ex.s. c 84 § 7; 1965 c 17 § 2; 1959 c 282 § 11.]

21.20.120 Denial, suspension, revocation of registration—Order—Request for, notice of hearing—Findings and conclusions. Upon the entry of an order under RCW 21.20.110, the director shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is a salesman or investment adviser salesman, that it has been entered and of the reasons therefor and that if requested by the applicant or registrant within fifteen days after the receipt of the director's notification the matter will be promptly set down for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination. No order may be entered under RCW 21.20.110 denying or revoking registration without appropriate prior notice to the applicant or registrant (as well as the employer or prospective employer if the applicant or registrant is a salesman or an

investment adviser salesman), opportunity for hearing, and written findings of fact and conclusions of law. [1975 1st ex.s. c 84 § 8; 1959 c 282 § 12.]

21.20.130 Cancellation of registration or application—Grounds. If the director finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, investment adviser, investment adviser salesman, or salesman, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the director may by order cancel the registration or application. [1975 1st ex.s. c 84 § 9; 1959 c 282 § 13.]

REGISTRATION OF SECURITIES

21.20.140 Unlawful to offer or sell unregistered securities—Exceptions. It is unlawful for any person to offer or sell any security in this state, except securities exempt under RCW 21.20.310 or when sold in transactions exempt under RCW 21.20.320, unless such security is registered by coordination or qualification under this chapter. [1975 1st ex.s. c 84 § 10; 1959 c 282 § 14.]

REGISTRATION BY NOTIFICATION

21.20.150 through 21.20.170 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

REGISTRATION BY QUALIFICATION

21.20.230 Time of taking effect of registration statement by qualification—Conditions. A registration statement by qualification under RCW 21.20.210 becomes effective if no stop order is in effect and no proceeding is pending under RCW 21.20.280 and 21.20.300, at three o'clock Pacific standard time in the afternoon of the fifteenth full business day after the filing of the registration statement or the last amendment, or at such earlier time as the director determines. The director may require as a condition of registration under this section that a prospectus containing any information necessary for complete disclosure of any material fact relating to the security offering be sent or given to each person to whom an offer is made before or concurrently with (1) the first written offer made to him (other than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution, (2) the confirmation of any sale made by or for the account of any such person, (3) payment pursuant to any such sale, or (4) delivery of the security pursuant to any such sale, whichever first occurs; but the director may accept for use under any

such requirement a current prospectus or offering circular regarding the same securities filed under the Securities Act of 1933 or regulations thereunder. [1975 1st ex.s. c 84 § 11; 1974 ex.s. c 77 § 4; 1961 c 37 § 6; 1959 c 282 § 23.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

REGISTRATION OF RESTRICTED REAL ESTATE SECURITIES

21.20.235 Restricted real estate securities—Registration under section authorized—Definition—Limitation. (1) The following restricted real estate securities may be registered under this section even though they are eligible for registration under other provisions of this chapter. The rules and regulations of the securities division shall be applicable to offerings registered under this section.

(2) Restricted real estate securities are hereby defined and limited as follows:

(a) An offering of a security involving any interest in a limited partnership, general partnership, joint venture, or unincorporated association (but not a corporation) which invests in specific real property known to the investor at the time of the investment.

(b) The person selling such securities is a licensed real estate broker, associate real estate broker, or real estate salesman duly licensed with the Washington real estate division, or a securities salesman or securities broker-dealer duly licensed with the Washington securities division, and has demonstrated a knowledge of the field of real estate securities by passing an examination as required by the director.

(c) Such securities are purchased by not more than thirty-five persons. An interest purchased by husband and wife shall be considered purchased by one person.

(d) In connection with the offering of such securities, public advertisements, meetings, seminars, or other means of public solicitation may not be employed unless such advertising contains a reference to the fact that these are restricted real estate securities and are filed with the securities division and are not disallowed in accordance with the rules and regulations of the securities division. The conducting of lectures or classes in any established public or private school shall not be deemed to constitute a means of public solicitation.

(3) Offerings of restricted real estate securities shall be registered on a form prescribed by the director. Said form shall be filed with the securities division by the selling real estate broker prior to any offer of solicitation to purchase such securities, and a copy of such completed form as filed shall be given by the registrant to each person to whom an offer is made before or concurrently with (a) the first written offer made to him (other than by means of a public advertisement), (b) the confirmation of any sale made, (c) payment pursuant to any such sale, or (d) delivery of the security pursuant to any such sale, whichever occurs first.

(4) The selling real estate broker under subsection (3) must, at the completion of the offering, file a report

with the securities division which contains a list of the security holders, their addresses, and the dollar amounts purchased.

(5) A registration under subsections (1) to (3) of this section becomes effective if no stop order is in effect and no proceeding is pending under RCW 21.20.280 and 21.20.300 at three o'clock Pacific standard time in the afternoon of the fifteenth full business day after the filing of the registration statement or the last amendment, or at such earlier time as the director determines. [1975 1st ex.s. c 84 § 27.]

GENERAL PROVISIONS REGARDING REGISTRATION OF SECURITIES

21.20.240 Registration statements—Generally. A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer. The director may by rule or otherwise permit the omission of any item of information or document from any registration statement. [1975 1st ex.s. c 84 § 12; 1959 c 282 § 24.]

21.20.260 Registration by coordination or qualification—Offer and sale—Duration of effectiveness. When securities are registered by coordination or qualification, they may be offered and sold by the issuer, any other person on whose behalf they are registered or by any registered broker-dealer or any person acting within the exemption provided in RCW 21.20.040. Every registration shall remain effective until its expiration date or until revoked by the director or until terminated upon request of the registrant with the consent of the director. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction. [1975 1st ex.s. c 84 § 13; 1974 ex.s. c 77 § 5; 1959 c 282 § 26.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

21.20.270 Reports by filer of statement—Fee—Annual financial statements. (1) The director may require the person who filed the registration statement to file reports, not more often than quarterly to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering with respect to registered securities which (a) are issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust as those terms are defined in the investment company act of 1940, or (b) are being offered and sold directly by or for the account of the issuer. A ten dollar fee shall accompany each such report.

(2) During the period of public offering of securities registered under the provisions of this chapter by qualification financial data or statements corresponding to those required under the provisions of RCW 21.20.210 and to the issuer's fiscal year shall be filed with the director annually, not more than one hundred twenty days after the end of each such year. Such statements at the discretion of the director or administrator shall be

certified by a certified public accountant who is not an employee of the issuer, and the director may verify them by examining the issuer's books and records. The certificate of such independent certified public accountant shall be based upon an audit of not less in scope or procedures followed than that which independent public accountants would ordinarily make for the purpose of presenting comprehensive and dependable financial statements, and shall contain such information as the director may prescribe, by rules and regulations in the public interest or for the protection of investors, as to the nature and scope of the audit and the findings and opinions of the accountants. Each such report shall state that such independent certified public accountant has verified securities owned, either by actual examination, or by receipt of a certificate from the custodian, as the director may prescribe by rules and regulations. [1975 1st ex.s. c 84 § 14; 1965 c 17 § 3; 1961 c 37 § 7; 1959 c 282 § 27.]

DENIAL, SUSPENSION AND REVOCATION OF REGISTRATION OF SECURITIES

21.20.280 Stop orders—Grounds. The director may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if he finds that the order is in the public interest and that:

(1) The registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) Any provision of this chapter or any rule, order, or condition lawfully imposed under this chapter has been wilfully violated, in connection with the offering by (a) the person filing the registration statement, (b) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (c) any underwriter;

(3) The security registered or sought to be registered is the subject of a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but (a) the director may not institute a proceeding against an effective registration statement under this clause more than one year from the date of the injunction relief on, and (b) he may not enter an order under this clause on the basis of an injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(4) The issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(5) The offering has worked or tended to work a fraud upon purchasers or would so operate;

(6) When a security is sought to be registered by co-ordination, there has been a failure to comply with the undertaking required by RCW 21.20.180(7), or

(7) The applicant or registrant has failed to pay the proper registration fee; but the director may enter only a denial order under this subsection and he shall vacate any such order when the deficiency has been corrected;

(8) The offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or compensation or promoters' profits or participation, or unreasonable amounts or kinds of options. [1975 1st ex.s. c 84 § 15; 1959 c 282 § 28.]

EXEMPT SECURITIES

21.20.310 Securities exempt from registration. RCW 21.20.140 through 21.20.300, inclusive, shall not apply to any of the following securities:

(1) Any security (including a revenue obligation) issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; or any certificate of deposit for any of the foregoing.

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor.

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank or trust company organized or supervised under the laws of any state.

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state.

(5) Any security issued by and representing an interest in or a debt of, or guaranteed by, any insurance company organized under the laws of this state and authorized to do and actually doing business in this state.

(6) Any security issued or guaranteed by any federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state.

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is (a) subject to the jurisdiction of the interstate commerce commission; (b) a registered holding company under the public utility holding company act of 1935 or a subsidiary of such a company within the meaning of that act; (c) regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or (d) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States,

any state, Canada, or any Canadian province; also equipment trust certificates in respect of equipment conditionally sold or leased to a railroad or public utility, if other securities issued by such railroad or public utility would be exempt under this subsection.

(8) Any security listed or approved for listing upon notice of issuance on the New York stock exchange, the American stock exchange, the Midwest stock exchange, the Spokane stock exchange or any other stock exchange registered with the federal securities and exchange commission and approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing. The director shall have power at any time by written order to withdraw the exemption so granted as to any particular security.

(9) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transaction, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of such paper which is likewise limited, or any guarantee of such paper or of any such renewal, when such commercial paper is sold to the banks or insurance companies.

(10) Any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the director is notified in writing thirty days before the inception of the plan or, with respect to plans which are in effect on the *effective date of this chapter, within sixty days thereafter (or within thirty days before they are reopened if they are closed on the effective date of this chapter). [1975 1st ex.s. c 84 § 16; 1959 c 282 § 31.]

*Reviser's note: The "effective date of this chapter" was midnight June 10, 1959, see preface 1959 session laws.

EXEMPT TRANSACTIONS

21.20.320 Exempt transactions—Denial, revocation of certain exemptions. Except as hereinafter in this section expressly provided, RCW 21.20.040, 21.20.050, 21.20.060, 21.20.070, 21.20.080, 21.20.090, 21.20.100, 21.20.110, 21.20.120, 21.20.130, 21.20.135, 21.20.140, 21.20.180, 21.20.190, 21.20.200, 21.20.210, 21.20.220, 21.20.230, 21.20.240, 21.20.250, 21.20.260, 21.20.270, 21.20.280, 21.20.290 and 21.20.300, shall not apply to any of the following transactions:

(1) Any isolated transaction, or sales not involving a public offering, whether effected through a broker-dealer or not.

(2) Any nonissuer distribution of an outstanding security by a registered broker-dealer if (a) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within eighteen months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or (b) the security

has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security.

(3) Any nonissuer transaction effected by or through a registered broker-dealer pursuant to an unsolicited order or offer to buy; but the director may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each such form be preserved by the broker-dealer for a specified period.

(4) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters.

(5) Any transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for the sale of real estate or chattels, if the entire mortgage, deed of trust, or agreement, together with all the bonds or other evidences of indebtedness secured thereby, is offered and sold as a unit.

(6) Any transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator.

(7) Any transaction executed by a bona fide pledgee without any purpose of evading this chapter.

(8) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(9) Any transaction pursuant to offers directed by the issuer or the issuer's representative to offerees in this state: *Provided, That:*

(a) The seller reasonably believes that all the buyers are purchasing for investments and for their respective accounts, and

(b) No public or general solicitation is utilized in said offers or sales, and

(c) No commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyer, and

(d) The number of sales by any issuer does not exceed ten individuals in twelve consecutive months and does not exceed an aggregate amount of one hundred thousand dollars, and

(e) The issuer first files a notice specifying the terms of the offer as the director may prescribe by rules and regulations and the director does not by order disallow the exemption within the next ten full business days, and

(f) For the purpose of this exemption, if a limited partnership form of business is used, the general partner and not the partnership is deemed to be the issuer, and

(g) The issuer submits a list of security holders within thirty days after the end of each fiscal year it has operated under this exemption. Failure to file such report

will not subject the issuer to retroactive loss of this exemption but will result in loss of this exemption during the period the list of security holders is due and not filed.

(10) Any offer or sale of a preorganization certificate or subscription if (a) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective subscriber, (b) the number of subscribers does not exceed ten, and (c) no payment is made by any subscriber.

(11) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than ninety days of their issuance, if (a) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state, or (b) the issuer first files a notice specifying the terms of the offer and the director does not by order disallow the exemption within the next five full business days.

(12) Any offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward such an order is pending under either act.

(13) The issuance of any stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the distribution other than the surrender of a right to a cash dividend where the stockholder can elect to take a dividend in cash or stock.

(14) Any transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi reorganization, stock split, reverse stock split, merger, consolidation or sale of assets.

(15) The offer or sale by a registered broker-dealer, or a person exempted from the registration requirements pursuant to RCW 21.20.040, acting either as principal or agent, of securities previously sold and distributed to the public: *Provided*, That:

(a) Such securities are sold at prices reasonably related to the current market price thereof at the time of sale, and, if such broker-dealer is acting as agent, the commission collected by such broker-dealer on account of the sale thereof is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics;

(b) Such securities do not constitute the whole or a part of an unsold allotment to or subscription or participation by such broker-dealer as an underwriter of such securities or as a participant in the distribution of such securities by the issuer, by an underwriter or by a person or group of persons in substantial control of the issuer or of the outstanding securities of the class being distributed; and

(c) The security has been lawfully sold and distributed in this state or any other state of the United States

under this or any act regulating the sale of such securities.

(16) Any transactions by a mutual or cooperative association issuing to its patrons any receipt, written notice, certificate of indebtedness or stock for a patronage dividend, or for contributions to capital by such patrons in the association provided that any such receipt, written notice or certificate made pursuant to this paragraph shall be nontransferable except in the case of death or by operation of law and shall so state conspicuously on its face.

The director may by order deny or revoke the exemption specified in subsection (2) of this section with respect to a specific security. Upon the entry of such an order, the director shall promptly notify all registered broker-dealers that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the director, the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, the director, after notice of an opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this subsection may operate retroactively. No person may be considered to have violated this chapter by reason of any offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order. In any proceeding under this chapter, the burden of proving an exemption from a definition is upon the person claiming it. [1975 1st ex.s. c 84 § 17; 1974 ex.s. c 77 § 6; 1972 ex.s. c 79 § 1; 1961 c 37 § 8; 1959 c 282 § 32.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

EXEMPT SECURITIES AND TRANSACTIONS

21.20.325 Denial, revocation, condition, of exemptions—Authority—Procedure. The director or administrator may by order deny, revoke, or condition any exemption specified in subsection (10) of RCW 21.20.310 or in RCW 21.20.320 with respect to a specific security or transaction. No such order may be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the director or administrator may by order summarily deny, revoke, or condition any of the specified exemptions pending final determination of any proceeding under this section. Upon the entry of a summary order, the director or administrator shall promptly notify all interested parties that it has been entered and of the reasons therefor and that within fifteen days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the director or administrator, the order will remain in effect until it is modified or vacated by the director or administrator.

If a hearing is requested or ordered, the director or administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination. No order under this section may operate retroactively. No person may be considered to have violated RCW 21.20.140 as now or hereafter amended by reason of any offer or sale effected after the entry of an order under this section if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the order. [1975 1st ex.s. c 84 § 18; 1974 ex.s. c 77 § 7; 1967 c 199 § 3.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

CONSENT TO SERVICE OF PROCESS

21.20.330 Consent to service of process—**Service, how made.** Every applicant for registration as a broker-dealer, investment adviser, investment adviser salesman, or salesman under this chapter and every issuer which proposes to offer a security in this state through any person acting on an agency basis in the common law sense shall file with the director, in such form as he by rule prescribes, an irrevocable consent appointing the director or his successor in office to be the attorney of the applicant to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or it or his successor, executor or administrator which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the director, but it is not effective unless (1) the plaintiff, who may be the director in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at it or his last address on file with the director, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows. [1975 1st ex.s. c 84 § 19; 1959 c 282 § 33.]

INTEREST

21.20.335 Interest charged by broker-dealers—**Margin account debit balances.** The interest charged by any broker-dealer registered under this chapter and under the Federal Securities Exchange Act of 1934, as amended, with respect to a margin account debit balance which is subject to Regulation T of the Board of Governors of the Federal Reserve System and which account may be paid in full at the will of the customer, shall not, regardless of whether the customer is a resident or a nonresident of, or the written agreement providing for such interest charge is entered into within or without, the state of Washington, be subject to the limitations imposed by chapter 19.52 RCW relating to the

maximum rate of interest which may be agreed to in writing and taken and received: *Provided, however,* That the interest rate charged by such broker-dealer shall not be more than one and one-half percent higher than the effective rate of interest paid by such broker dealer for funds borrowed to make margin account purchases for his customers on the date of the customer borrowing, or such lesser rate as may be set by rules or regulations of the securities division of the department of motor vehicles. [1975 1st ex.s. c 84 § 26.]

FEEES

21.20.340 Fees—**Disposition.** The following fees shall be paid in advance under the provisions of this chapter:

(1) For registration of all securities other than investment trusts and securities registered by coordination the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered during that year: *Provided, however,* That an issuer may upon the payment of a fifty dollar fee renew for one additional twelve month period only the unsold portion for which the registration fee has been paid.

(2) For registration of securities issued by a face-amount certificate company or redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, the fee shall be one hundred dollars for the first one hundred thousand dollars of initial issue, or portion thereof in this state, based on offering price, plus one-twentieth of one percent for any excess over one hundred thousand dollars which are to be offered in this state during that year: *Provided, however,* That an issuer may upon the payment of a fifty dollar fee renew for an additional twelve month period the unsold portion for which the registration fee has been paid.

(3) For registration by coordination, other than investment trusts, the fee shall be one hundred dollars for initial filing fee for the first twelve month period plus one hundred dollars for each additional twelve months in which the same offering is continued.

(4) For filing annual financial statements, the fee shall be twenty-five dollars.

(5) For filing an amended offering circular after the initial registration permit has been granted the fee shall be ten dollars.

(6) For registration of a broker-dealer or investment adviser, the fee shall be one hundred fifty dollars for original registration and fifty dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(7) For registration of a salesman or investment adviser salesman, the fee shall be twenty-five dollars for original registration with each employer and fifteen dollars for each annual renewal. When an application is denied or withdrawn the director shall retain one-half of the fee.

(8) For written examination for registration as a salesman or investment adviser salesman, the fee shall be fifteen dollars. For examinations for registration as a broker-dealer or investment adviser, the fee shall be fifty dollars.

(9) If the application for a renewal license is not received by the department on or before March 5 of each year the renewal license fee for a late license for a broker-dealer or an investment adviser shall be one hundred dollars and for a salesman or investment adviser salesman shall be twenty-five dollars. Acceptance by the director of an application for renewal after March 5 shall not be a waiver of delinquency.

(10) (a) For the transfer of a broker-dealer license to a successor, the fee shall be twenty-five dollars.

(b) For the transfer of a salesman from a broker-dealer or issuer to another broker-dealer or issuer, the transfer fee shall be fifteen dollars.

(c) For the transfer of an investment adviser salesman from an investment adviser to another investment adviser, the transfer fee shall be fifteen dollars.

(11) For certified copies of any documents filed with the director, the fee shall be the cost to the department.

(12) All fees collected under this chapter shall be turned in to the state treasury and shall not be refundable, except as herein provided. [1975 1st ex.s. c 84 § 20; 1974 ex.s. c 77 § 8; 1965 c 17 § 4; 1961 c 37 § 9; 1959 c 282 § 34.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

Effective date—1965 c 17: "Section 4 of this amendatory act shall take effect July 1, 1965." [1965 c 17 § 6.]

UNLAWFUL REPRESENTATIONS CONCERNING REGISTRATION OR EXEMPTION

21.20.360 Filing, registration, statement, exemption not conclusive as to truth or completeness—Unlawful representations. Neither the fact that an application for registration under RCW 21.20.050, a registration statement under RCW 21.20.180 or 21.20.210 has been filed, nor the fact that a person or security is effectively registered, constitutes a finding by the director that any document filed under this chapter is true, complete, and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the director has passed in any way upon the merits of qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make, or cause to be made, to any prospective purchaser, customer, or client any representation inconsistent with this section. [1975 1st ex.s. c 84 § 21; 1959 c 282 § 36.]

INVESTIGATIONS AND SUBPOENAS

21.20.380 Oaths—Subpoenas—Compelling obedience—Punishment. For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him may administer oaths and

affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

In case of disobedience on the part of any person to comply with any subpoena lawfully issued by the director, or on the refusal of any witness to testify to any matters regarding which he may be lawfully interrogated, the superior court of any county or the judge thereof, on application of the director, and after satisfactory evidence of wilful disobedience, may compel obedience by proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such a court on a refusal to testify therein. [1975 1st ex.s. c 84 § 22; 1974 ex.s. c 77 § 9; 1959 c 282 § 38.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

INJUNCTIONS AND OTHER REMEDIES

21.20.390 Injunction, cease and desist order, restraining order, mandamus—Appointment of receiver or conservator for insolvent—Restitution or damages. Whenever it appears to the director that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this chapter or any rule or order hereunder, he may in his discretion:

(1) Issue an order directing the person to cease and desist from continuing the act or practice: *Provided*, That reasonable notice of and opportunity for a hearing shall be given: *Provided, further*, That the director may issue a temporary order pending the hearing which shall remain in effect until ten days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice; or

(2) The director may without issuing a cease and desist order, bring an action in any court of competent jurisdiction to enjoin any such acts or practices and to enforce compliance with this chapter or any rule or order hereunder. Upon a proper showing a permanent or temporary injunction, restraining order, or writ of mandamus shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets. The director may not be required to post a bond. If the director prevails, he shall be entitled to a reasonable attorney's fee to be fixed by the court.

(3) Whenever it appears to the director that any person who has received a permit to issue, sell or otherwise dispose of securities under this chapter, whether current or otherwise, has become insolvent, the director may petition a court of competent jurisdiction to appoint a receiver or conservator for the defendant or the defendant's assets. The director may not be required to post a bond.

(4) The director may include in any action authorized by subsection (2) of this section a claim for restitution or damages on behalf of the persons injured by the act or practice constituting the subject matter of the action.

The court shall have the power to award appropriate relief to such persons, if the court finds that enforcement of the rights of such persons by private civil action, whether by class action or otherwise, would be so burdensome or expensive as to be impractical. [1975 1st ex.s. c 84 § 23; 1974 ex.s. c 77 § 10; 1959 c 282 § 39.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

CIVIL LIABILITIES

21.20.430 Civil liabilities—Survival, limitation of actions—Waiver of chapter void. (1) Any person, who offers or sells a security in violation of any provisions of RCW 21.20.140 through 21.20.220 and 21.20.230, or offers or sells a security by means of fraud or misrepresentation is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at eight percent per annum from the date of payment, costs, and reasonable attorneys' fees, less the amount of any income received on the security, upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at eight percent per annum from the date of disposition.

(2) Any person who buys a security by means of fraud or misrepresentation is liable to the person selling the security to him, who may sue either at law or in equity to recover the security, together with any income received on the security, costs, and reasonable attorneys' fees or if the security cannot be recovered, the value of the security, any profits arising from the security, costs, and reasonable attorneys' fees.

(3) Every person who directly or indirectly controls a seller or buyer liable under subsection (1) or (2) above, every partner, officer, or director (or person occupying a similar status or performing similar functions) or employee of such a seller or buyer who materially aids in the transaction, and every broker-dealer, salesman or person exempt under the provisions of RCW 21.20.040 who materially aids in the transaction is also liable jointly and severally with and to the same extent as the seller or buyer, unless he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist. There is contribution as in cases of contract among the several persons so liable.

(4) (a) Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant.

(b) No person may sue under this section more than three years after the contract of sale. No person may sue under this section if the buyer or seller receives a written rescission offer, which has been passed upon by the director before suit and at a time when he owned the security, to refund the consideration paid together with interest at eight percent per annum from the date

of payment, less the amount of any income received on the security in the case of a buyer, or plus the amount of income received on the security in the case of a seller.

(5) No person who has made or engaged in the performance of any contract in violation of any provision of this chapter or any rule or order hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract. Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this chapter or any rule or order hereunder is void. [1975 1st ex.s. c 84 § 24; 1974 ex.s. c 77 § 11; 1967 c 199 § 2; 1959 c 282 § 43.]

Effective date—1974 ex.s. c 77: See note following RCW 21.20.040.

ADMINISTRATION OF CHAPTER

21.20.450 Administration of chapter—Rules and forms, publication—Cooperation with other state and federal authorities. The administration of the provisions of this chapter shall be under the *department of licenses. The director may from time to time make, amend, and rescind such rules and forms as are necessary to carry out the provisions of this chapter, including rules defining any term, whether or not such term is used in the Washington securities law. The director may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes. No rule or form, may be made unless the director finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter. In prescribing rules and forms the director may cooperate with the securities administrators of the other states and the securities and exchange commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statements, applications, and reports wherever practicable. All rules and forms of the director shall be published. [1975 1st ex.s. c 84 § 25; 1959 c 282 § 45.]

***Reviser's note:** "department of licenses" abolished and powers and duties transferred to department of motor vehicles. See note following RCW 21.20.005.

Title 22 WAREHOUSING AND DEPOSITS

Chapters

22.09 Agricultural commodities.

Chapter 22.09 AGRICULTURAL COMMODITIES

Sections

22.09.010 Definitions.

- 22.09.030 License or licenses required.
 22.09.040 Application for license.
 22.09.060 Bond and insurance prerequisite to license.
 22.09.090 Bond requisites—Insurance policy in lieu of bond.
 22.09.180 Rights and duties of licensees—Records, contents—
 Receipt not defeated by licensees' ownership of goods.
 22.09.570 Action on bond by director or depositor—Author-
 ized—Grounds.
 22.09.580 Action on bond by director—Failure of depositor
 creditor to file claim upon request—Effect.
 22.09.590 Action on bond by director—Records as to depositor
 creditors missing or information incomplete—Effect.
 22.09.600 Action on bond by director—Powers and duties.
 22.09.610 Action on bond by director—When authorized—
 New bond, when required.
 22.09.620 Payment for agricultural commodities purchased—
 Time requirements.
 22.09.630 Payment violations—Recovery by department—
 Charges to depositors.

22.09.010 Definitions. For the purpose of this chapter:

(1) "Department" means the department of agriculture of the state of Washington.

(2) "Director" means the director of the department or his duly authorized representative.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, cooperative, port district, or two or more persons having a joint or common interest.

(4) "Agricultural commodities", hereinafter referred to as commodities, means, but is not limited to, all the grains, hay, peas, hops, grain and hay products, beans, lentils, corn, sorghums, malt, peanuts, flax, and other similar agricultural products, and shall also include agricultural seeds but only when stored by a warehouseman who issues negotiable warehouse receipts therefor.

(5) "Public warehouse" hereinafter referred to as "warehouse" means any elevator, mill, warehouse, public grain warehouse, public warehouse, terminal warehouse, station, or other structure or facility in which commodities are received from the public for storage, shipment, or handling, for compensation, and in the case of hay any yard or other enclosure within five miles thereof: *Provided*, That this shall not include any warehouse storing or handling fresh fruits and/or vegetables or any warehouse used exclusively for cold storage.

(6) "Terminal warehouse" means any warehouse designated as a terminal by the department, and located at an inspection point where inspection facilities are maintained by the department and where commodities are ordinarily received and shipped by common carrier.

(7) "Inspection point" means a city, town, or other place wherein the department maintains inspection and weighing facilities.

(8) "Station" means two or more warehouses between which commodities are commonly transferred in the ordinary course of business and which are (a) immediately adjacent to each other, or (b) located within the corporate limits of any city or town and subject to the same transportation tariff zone, or (c) at any railroad siding or switching area and subject to the same transportation tariff zone, or (d) at one location in the open country off rail, or (e) in any area which can be reasonably audited by the department as a station under the

provisions of this chapter and which has been established as such by the director by rule or regulation adopted pursuant to chapter 34.04 RCW.

(9) "Depositor" means any person who deposits a commodity in a warehouse for storage, handling, or shipment, or who is the owner or legal holder of a warehouse receipt, outstanding scale weight ticket, or other evidence of such deposit or any person whose agricultural commodity has been sold to or is under control of the warehouseman for selling, processing, or handling for compensation, whether or not such commodity is in the warehouse.

(10) "Warehouse receipt" means a negotiable or non-negotiable warehouse receipt as provided for in the Uniform Warehouse Receipts Act (chapter 22.04 RCW), as enacted or hereafter amended.

(11) "Warehouseman" means any person owning, operating, or controlling a warehouse.

(12) "Scale weight ticket" means a load slip or other evidence of deposit, serially numbered, not including warehouse receipts as defined in subsection (10) of this section, given a depositor on request upon initial delivery of the commodity to the warehouse and shall show the warehouse name, and state number, type of commodity, weight thereof, name of depositor, and the date delivered. [1975 1st ex.s. c 7 § 19; 1971 c 65 § 1; 1967 c 240 § 51; 1963 c 124 § 1.]

Severability—1967 c 240: See note following RCW 43.23.010.

Warehouse receipts, bills of lading and other documents of title—Uniform commercial code: Article 62A.7 RCW.

22.09.030 License or licenses required. It shall be unlawful for any person to operate a warehouse without first having obtained an annual license from the department: *Provided*, That this chapter shall not apply to warehouses that are federally licensed under the provisions of 7 USC 241 et seq. for the handling and storage of agricultural commodities. A separate license shall be required for each warehouse a person intends to operate: *Provided*, That any person operating two or more warehouses which constitute a station may license such warehouses under one state license. All the assets of a given station, licensed under one state license, shall be subject to all the liabilities of that station and for the purposes of this chapter shall be treated as a single warehouse, requiring all the stocks and obligations of the warehouses at a given station to be treated as a unit for all purposes including, but not limited to, issuance of warehouse receipts and receipt and delivery of commodities for storage, shipment, or handling. [1975 1st ex.s. c 7 § 20; 1963 c 124 § 3.]

22.09.040 Application for license. Application for a license to operate a warehouse under the provisions of this chapter shall be on a form prescribed by the department and shall include:

(1) The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other;

(2) The full name of each member of the firm or partnership, or the names of the officers of the company, society, cooperative association, or corporation;

(3) The principal business address of the applicant in the state and elsewhere;

(4) The name or names of the person or persons authorized to receive and accept service of summons and legal notices of all kinds for the applicant;

(5) The location of each warehouse the applicant intends to operate and the preponderate commodity expected in storage;

(6) The bushel storage capacity of each such warehouse to be licensed, including a schematic diagram accurately showing the areas of storage and floor plan of the warehouse;

(7) The schedule of fees to be charged at each warehouse for the handling, storage, and shipment of all commodities during the licensing period;

(8) A financial statement to determine the net worth of the applicant to determine whether or not the applicant meets the minimum net worth requirements established by the director pursuant to chapter 34.04 RCW;

(9) Whether the application is for a station, terminal, or public warehouse license;

(10) Any other reasonable information the department finds necessary to carry out the purpose and provisions of this chapter. [1975 1st ex.s. c 7 § 21; 1963 c 124 § 4.]

22.09.060 Bond and insurance prerequisite to license.

No license shall be issued to an applicant before a bond as provided in RCW 22.09.090 and a certificate of insurance as provided in RCW 22.09.110 have been filed with the department. [1975 1st ex.s. c 7 § 22; 1963 c 124 § 6.]

22.09.090 Bond requisites—Insurance policy in lieu of bond. (1) Before any person shall be granted a license pursuant to the provisions of this chapter such person shall give a bond to the state of Washington executed by the warehouseman as principal and by a corporate surety licensed to do business in this state as surety. The bond shall be in the sum of not less than twenty-five thousand dollars nor more than five hundred thousand dollars. The department shall, after holding a public hearing, determine the amount of the bond which shall be computed at a rate of not less than fifteen cents nor more than thirty cents per bushel multiplied by the number of bushels of licensed commodity storage capacity of the warehouses of the licensee furnishing the bond, or at the rate of not less than six percent nor more than twelve percent of the gross sales of agricultural commodities of such licensee, whichever is greater.

(2) The bond shall be approved by the department and shall be conditioned upon the faithful performance by the warehouseman of the duty to keep in the warehouse for the depositor the commodity delivered, and to deliver the commodity to, or ship it for, such depositor, and such additional obligations, including merchandising, as a warehouseman may assume with the respective depositors as defined in RCW 22.09.010(9) as now or hereafter amended. In case a person has applied for licenses to conduct two or more warehouses in the state,

the assets applicable to all warehouses, but not the deposits except in case of a station, shall be subject to the liabilities of each. The total and aggregate liability of the surety for all claims upon such bond shall be limited to the amount specified in the bond.

(3) The warehouseman may give a single bond meeting the requirements of this chapter, and all warehouses operated by the warehouseman shall be deemed as one warehouse for the purpose of the bond required under such section. Any change in the capacity of a warehouse or installation of any new warehouse involving a change in bond liability under this chapter shall be immediately reported to the department prior to the operation thereof.

(4) Notwithstanding any other provisions of this chapter, the license of a warehouseman shall automatically be suspended in accordance with the provisions of RCW 22.09.100 for failure at any time to have or to maintain a bond in the amount and type required herein. The department shall remove the suspension or issue a license as the case may be, when the required bond has been obtained.

(5) Any warehouseman required to submit a bond to the department pursuant to the provisions of this chapter shall have the option to file a policy of insurance with the department in lieu of the warehouseman's bond. Such insurance policy, before being accepted, shall be approved by the attorney general and the insurance commissioner of the state of Washington if they deem the coverage provided thereby is equivalent to or greater than the coverage for depositors provided by the warehouseman's bond. If such an insurance policy is accepted in place of the bond, such insurance policy, as between the department, warehouseman, and the depositors, shall be treated exactly the same as if it were a bond filed with the department. It is the intention of the legislature in this subsection to have the insurance policy replace the bond, as between the department, warehouseman, and the depositors, for all purposes as though the term bond used throughout the several sections of this chapter were to contain instead the term insurance policy. [1975 1st ex.s. c 7 § 23; 1969 ex.s. c 132 § 2; 1963 c 124 § 9.]

22.09.180 Rights and duties of licensees—Records, contents—Receipt not defeated by licensees' ownership of goods.

(1) The warehouseman shall maintain current and complete records at all times with respect to all agricultural commodities handled, stored, shipped, or merchandised by him, including commodities owned by him. Such records shall include, but not be limited to, a daily position record showing the total quantity of each kind and class of agricultural commodity received and loaded out and the amount remaining in storage at the close of each business day, and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day.

(2) No warehouse receipt issued by any warehouseman as defined in this chapter and no negotiation, transfer, or pledge of any such receipt shall be defeated

by reason of the fact that the goods covered by the receipt were owned, in whole or in part, by the warehouseman at the time the receipt was issued.

(3) Every warehouseman purchasing any agricultural commodity from a depositor thereof shall promptly make and keep for one year a correct record showing in detail the following:

- (a) The name and address of the depositor;
- (b) The date purchased;
- (c) The terms of the sale; and
- (d) The quality and quantity purchased by the warehouseman, and where applicable the dockage, tare, grade, size, net weight, or quantity.

(4) An itemized statement of any charges paid by the warehouseman for the account of the depositor.

A copy of such record containing the above matters shall be forwarded to the depositor forthwith. [1975 1st ex.s. c 7 § 24; 1963 c 124 § 18.]

22.09.570 Action on bond by director or depositor—Authorized—Grounds. The director or any depositor of any agricultural commodity may bring action upon said bond against both principal and surety in any court of competent jurisdiction to recover the damages caused by any failure to comply with the provisions of this chapter or the rules and regulations adopted hereunder. [1975 1st ex.s. c 7 § 29.]

22.09.580 Action on bond by director—Failure of depositor creditor to file claim upon request—Effect. If a depositor creditor after notification fails, refuses or neglects to file in the office of the director his verified claim as requested by the director within sixty days from the date of such request, the director shall thereupon be relieved of further duty or action hereunder on behalf of said depositor creditor. [1975 1st ex.s. c 7 § 30.]

22.09.590 Action on bond by director—Records as to depositor creditors missing or information incomplete—Effect. Where by reason of the absence of records, or other circumstances making it impossible or unreasonable for the director to ascertain the names and addresses of all said depositor creditors, the director after exerting due diligence and making reasonable inquiry to secure said information from all reasonable and available sources, may make demand on said bond on the basis of information then in his possession, and thereafter shall not be liable or responsible for claims or the handling of claims which may subsequently appear or be discovered. [1975 1st ex.s. c 7 § 31.]

22.09.600 Action on bond by director—Powers and duties. Upon ascertaining all claims and statements in the manner herein set forth, the director may then make demand upon the bond on behalf of those claimants whose statements have been filed, and shall have the power to settle or compromise said claims with the surety company on the bond, and is empowered in such cases to execute and deliver a release and discharge of the bond involved. [1975 1st ex.s. c 7 § 32.]

22.09.610 Action on bond by director—When authorized—New bond, when required. Upon the refusal of the surety company to pay the demand the director may thereupon bring an action on the bond in behalf of said depositor creditors. Upon any action being commenced on said bond the director may require the filing of a new bond and immediately upon the recovery in any action on such bond such warehouseman shall file a new bond and upon failure to file the same within ten days in either case such failure shall constitute grounds for the suspension or revocation of his license. [1975 1st ex.s. c 7 § 33.]

22.09.620 Payment for agricultural commodities purchased—Time requirements. Every warehouseman must pay for agricultural commodities purchased by him at the time and in the manner specified in the contract with the depositor, but if no time is set by such contract, then within thirty days after taking possession for purpose of sale or taking title of such agricultural product. [1975 1st ex.s. c 7 § 34.]

22.09.630 Payment violations—Recovery by department—Charges to depositors. When a violation has occurred which results in improper payment or nonpayment and a claim is made to the department and the payment is secured through the actions of the department the following charges will be made to the depositor for the action of the department in the matter:

- (1) When reported within thirty days from time of default, no charge.
- (2) When reported thirty days to one hundred eighty days from time of default, five percent.
- (3) When reported after one hundred eighty days from time of default, ten percent. [1975 1st ex.s. c 7 § 35.]

Title 23 CORPORATIONS AND ASSOCIATIONS (PROFIT) (BUSINESS CORPORATION ACT: SEE TITLE 23A RCW)

Chapters

23.01 Private business corporations act.

Chapter 23.01 PRIVATE BUSINESS CORPORATIONS ACT

Sections

- 23.01.226 Recodified as RCW 23A.08.325.
- 23.01.227 Community property agreements—Transfers of shares pursuant to direction of surviving spouse.

23.01.226 Recodified as RCW 23A.08.325. See Supplementary Table of Disposition of Former RCW Sections, this volume.

23.01.227 Community property agreements—Transfers of shares pursuant to direction of surviving spouse. See RCW 23A.08.325.

Title 23A WASHINGTON BUSINESS CORPORATION ACT

Chapters

23A.08 Substantive provisions.

23A.40 Fees and charges.

Chapter 23A.08 SUBSTANTIVE PROVISIONS

Sections

- 23A.08.130 Issuance of shares of preferred or special classes in series.
- 23A.08.325 Community property agreements—Transfers of shares pursuant to direction of surviving spouse.
- 23A.08.350 Number and election of directors.
- 23A.08.410 Place and notice of directors' or designated or appointed committee meetings—Presence.
- 23A.08.470 Officers.

23A.08.130 Issuance of shares of preferred or special classes in series. (1) If the articles of incorporation so provide, the shares of any preferred or special class may be divided into and issued in series. If the shares of any such class are to be issued in series, then each series shall be so designated as to distinguish the shares thereof from the shares of all other series and classes. Any or all of the series of any such class and the variations in the relative rights and preferences as between different series may be fixed and determined by the articles of incorporation, but all shares of the same class shall be identical except as to the following relative rights and preferences, as to which there may be variations between different series:

- (a) The rate of dividend.
- (b) Whether shares may be redeemed and, if so, the redemption price and the terms and conditions of redemption.
- (c) The amount payable upon shares in event of voluntary and involuntary liquidation.
- (d) Sinking fund provisions, if any, for the redemption or purchase of shares.
- (e) The terms and conditions, if any, on which shares may be converted.
- (f) Voting rights, if any.

(2) If the articles of incorporation shall expressly vest authority in the board of directors, then, to the extent that the articles of incorporation shall not have established series and fixed and determined the variations in the relative rights and preferences as between series, the board of directors shall have authority to divide any or all of such classes into series and, within the limitations set forth in this section and in the articles of incorporation, fix and determine the relative rights and preferences of the shares of any series so established.

(3) In order for the board of directors to establish a series, where authority so to do is contained in the articles of incorporation, the board of directors shall adopt a resolution setting forth the designation of the series and fixing and determining the relative rights and preferences thereof, or so much thereof as shall not be fixed and determined by the articles of incorporation.

(4) Prior to the issue of any shares of a series established by resolution adopted by the board of directors, the corporation shall file and execute in the manner hereinafter provided a statement setting forth:

- (a) The name of the corporation.
- (b) A copy of the resolution establishing and designating the series, and fixing and determining the relative rights and preferences thereof.
- (c) The date of adoption of such resolution.
- (d) That such resolution was duly adopted by the board of directors.

(5) Such statement shall be executed in triplicate by the corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers signing such statement, and shall be delivered to the secretary of state. If the secretary of state finds that such statement conforms to law, he shall, when all fees have been paid as in this title prescribed:

- (a) Endorse on each of such triplicate originals the word "Filed," and the month, day, and year of the filing thereof.
- (b) File one of such originals in his office.
- (c) Return the other two such originals to the corporation or its representative.
- (6) One of such other originals shall then be filed in the office of the auditor of the county in which the registered office of the corporation is located and the other shall be retained by the corporation.
- (7) Upon the filing of such statement by the secretary of state, the resolution establishing and designating the series and fixing and determining the relative rights and preferences thereof shall become effective and shall constitute an amendment of the articles of incorporation. [1975 1st ex.s. c 264 § 5; 1965 c 53 § 16.]

23A.08.325 Community property agreements—Transfers of shares pursuant to direction of surviving spouse. Neither a domestic or foreign corporation or its registrar or transfer agent shall be liable for transferring or causing to be transferred on the books of the corporation to or pursuant to the direction of the surviving spouse of a deceased husband or wife any share or shares or other securities theretofore issued by the corporation to the deceased or surviving spouse or both of them if the corporation or its registrar or transfer agent shall be provided with the following:

- (1) A copy of an agreement which shall have been entered into between the spouses pursuant to the provisions of section 2416 Code of 1881 and RCW 26.16.120 and certified by the auditor of the county in this state in whose office the same shall have been recorded;
- (2) A certified copy of the death certificate of the deceased spouse;

(3) A release issued by the inheritance tax division of the department of revenue of this state; and

(4) An affidavit of the surviving spouse that:

(a) The shares or other securities constituted community property of the spouses at date of death of the deceased spouse and their disposition is controlled by the community property agreement;

(b) No proceedings have been instituted to contest or set aside or cancel the agreement; and that

(c) The claims of creditors have been paid or provided for. [1975 1st ex.s. c 264 § 1. Prior: 1975 1st ex.s. c 278 § 18; 1965 c 85 § 1. Formerly RCW 23.01.226.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

23A.08.350 Number and election of directors. The number of directors of a corporation shall be not less than three, except that in cases where all shares of a corporation are owned of record by fewer than three shareholders, the number of directors may be less than three but not less than the number of such shareholders. Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number constituting the initial board of directors, which number shall be fixed by the articles of incorporation. The number of directors may be increased or decreased from time to time by amendment to the bylaws, but no decrease shall have the effect of shortening the term of any incumbent director. In the absence of a bylaw fixing the number of directors, the number shall be the same as that stated in the articles of incorporation. The names and addresses of the members of the first board of directors shall be stated in the articles of incorporation. Such persons shall hold office until the first annual meeting of shareholders, and until their successors shall have been elected and are qualified, unless removed in accordance with the provisions of the bylaws. At the first annual meeting of shareholders and at each annual meeting thereafter the shareholders shall elect directors to hold office until the next succeeding annual meeting, except in case of the classification of directors as permitted by this title. Each director shall hold office for the term for which he is elected and until his successor shall have been elected and is qualified, unless removed in accordance with the provisions of the bylaws. [1975 1st ex.s. c 264 § 2; 1965 c 53 § 38.]

23A.08.410 Place and notice of directors' or designated or appointed committee meetings—Presence. Meetings of the board of directors, regular or special, may be held either within or without this state.

Regular meetings of the board of directors or of any committee designated by the bylaws or appointed by the board of directors may be held with or without notice as prescribed in the bylaws. Special meetings of the board of directors shall be held upon such notice as is prescribed in the bylaws. Attendance of a director or a committee member at a meeting shall constitute a waiver of notice of such meeting, except where a director or a committee member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or

convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the board of directors or any committee designated by the bylaws or appointed by the board of directors need be specified in the notice or waiver of notice of such meeting unless required by the bylaws.

Except as may be otherwise restricted by the articles of incorporation or bylaws, members of the board of directors or any committee designated by the bylaws or appointed by the board of directors may participate in a meeting of such board or committee by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time, and participation by such means shall constitute presence in person at a meeting. [1975 1st ex.s. c 264 § 3; 1965 c 53 § 44.]

23A.08.470 Officers. The officers of a corporation shall consist of a president, one or more vice presidents as may be prescribed by the bylaws, a secretary, and a treasurer, each of whom shall be elected by the board of directors at such time and in such manner as may be prescribed by the bylaws. Such other officers and assistant officers and agents as may be deemed necessary may be elected or appointed by the board of directors or chosen in such other manner as may be prescribed by the bylaws. Any two or more offices may be held by the same person, except the offices of president and secretary, except that when all of the issued and outstanding stock of the corporation is owned of record by one person, such person may hold all or any combination of offices.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the bylaws, or as may be determined by resolution of the board of directors not inconsistent with the bylaws. [1975 1st ex.s. c 264 § 4; 1965 c 53 § 50.]

Chapter 23A.40 FEES AND CHARGES

Sections

23A.40.075 Annual license fee constitutes tax on privilege of doing business—Payment required—Failure, existence ceases—Notification—Restoration and reinstatement—Fees.

23A.40.075 Annual license fee constitutes tax on privilege of doing business—Payment required—Failure, existence ceases—Notification—Restoration and reinstatement—Fees. The annual license fee required by RCW 23A.40.060, as now or hereafter amended, and RCW 23A.40.140 is a tax on the privilege of doing business as a corporation in the state of Washington. No corporation shall do business in this state without first having paid its annual license fee, except as provided in RCW 23A.36.010 and 23A.36.020.

Failure of the corporation to pay its annual license fees shall not derogate from the rights of its creditors, or prevent the corporation from being sued and from

defending lawsuits, nor shall it release the corporation from any of the duties or liabilities of a corporation under law.

Every domestic corporation which shall fail for three consecutive years to acquire an annual license for the privilege of doing business in this state shall cease to exist as a corporation on the third anniversary of the date it was last licensed to do business in this state. When a corporation has ceased to exist by operation of this section, remedies available to or against it shall survive in the manner provided in RCW 23A.28.250 and the directors of the corporation shall hold the title to the property of the corporation as trustees for the benefit of its creditors and shareholders.

A domestic corporation which has not ceased to exist by operation of law may restore its privilege to do business by paying the current annual license fee and a restoration fee which shall include a sum equivalent to the amount of annual license fees the corporation would have paid had it continuously maintained its privilege to do business plus an additional fee equivalent to one percent per month or fraction thereof computed upon each annual license fee from the time it would have been paid had the corporation maintained its privilege to do business to the date when the corporation restored its privilege to do business: *Provided*, That the minimum additional license fee due under this section shall be two dollars and fifty cents. A corporation which has ceased to exist may reinstate within two years by paying all fees specified above plus a reinstatement fee of ten dollars and upon doing so shall be reinstated and again be entitled to do business, and may use its former corporate name if that name is not then in use by a corporation then in existence. If the former name is not available, the corporation may file amended articles to adopt a new name simultaneous with reinstatement. Upon payment of the above fees, restoration and reinstatement of the privilege to do business shall be effective, and the corporation shall have all the rights and privileges it would have possessed had it continually maintained its privilege to do business.

When any domestic corporation first fails to pay its annual license fee when due, the secretary of state shall, in that year only, mail to the corporation at its registered office, by first class mail, a notice that if it does not pay its annual license fee it will no longer have the privilege of doing business in this state, and that the corporation's privilege may be restored as provided in this section, and the notice shall contain a reminder that, if the privilege is not restored for three consecutive years, the existence of the corporation shall cease without further notice. [1975 1st ex.s. c 36 § 1; 1971 ex.s. c 142 § 1; 1969 ex.s. c 92 § 4.]

**Title 26
DOMESTIC RELATIONS**

Chapters

26.09 Dissolution of marriage—Legal separation—Declarations concerning validity of marriage.

26.28 Infants.

26.44 Child abuse—Reports—Procedure.

Shoplifting by minors, liability of parents, guardians: RCW 4.24.230.

**Chapter 26.09
DISSOLUTION OF MARRIAGE—LEGAL
SEPARATION—DECLARATIONS
CONCERNING
VALIDITY OF MARRIAGE**

Sections

- 26.09.010 Civil practice to govern—Designation of proceedings—Decrees.
- 26.09.040 Petition to have marriage declared invalid or judicial determination of validity—Procedure—Findings—Grounds—Legitimacy of children.
- 26.09.060 Temporary maintenance or child support—Temporary restraining order—Preliminary injunction.
- 26.09.280 Child custody or support actions or proceedings—Venue.

26.09.010 Civil practice to govern—Designation of proceedings—Decrees. (1) Except as otherwise specifically provided herein, the practice in civil action shall govern all proceedings under this chapter, except that trial by jury is dispensed with.

(2) A proceeding for dissolution of marriage, legal separation or a declaration concerning the validity of a marriage shall be entitled "In re the marriage of ----- and -----." Such proceeding may be filed in the superior court of the county where the petitioner resides.

(3) In cases where there has been no prior proceeding in this state involving the marital status of the parties or custody or support obligations, a separate custody or support proceeding shall be entitled "In re the (custody) (support) of -----."

(4) The initial pleading in all proceedings for dissolution of marriage under this chapter shall be denominated a petition. A responsive pleading shall be denominated a response. Other pleadings, and all pleadings in other matters under this chapter shall be denominated as provided in the civil rules for superior court.

(5) In this chapter, "decree" includes "judgment".

(6) A decree of dissolution, of legal separation, or a declaration concerning the validity of a marriage shall not be awarded to one of the parties, but shall provide that it affects the status previously existing between the parties in the manner decreed. [1975 c 32 § 1; 1973 1st ex.s. c 157 § 1.]

26.09.040 Petition to have marriage declared invalid or judicial determination of validity—Procedure—Findings—Grounds—Legitimacy of children. (1) While both parties to an alleged marriage are living, and at least one party is resident in this state or a member of the armed service and stationed in the state,

a petition to have the marriage declared invalid may be sought by:

(a) Either or both parties, or the guardian of an incompetent spouse, for any cause specified in subsection (4) of this section; or

(b) Either or both parties, the legal spouse, or a child of either party when it is alleged that the marriage is bigamous.

(2) If the validity of a marriage is denied or questioned at any time, either or both parties to the marriage may petition the court for a judicial determination of the validity of such marriage.

(3) In a proceeding to declare the invalidity of a marriage, the court shall proceed in the manner and shall have the jurisdiction, including the authority to provide for maintenance, custody, visitation, support, and division of the property of the parties, provided by this chapter.

(4) After hearing the evidence concerning the validity of a marriage, if both parties to the alleged marriage are still living, the court:

(a) If it finds the marriage to be valid, shall enter a decree of validity;

(b) If it finds that:

(i) The marriage should not have been contracted because of age of one or both of the parties, lack of required parental or court approval, a prior undissolved marriage of one or both of the parties, reasons of consanguinity, or because a party lacked capacity to consent to the marriage, either because of mental incapacity or because of the influence of alcohol or other incapacitating substances, or because a party was induced to enter into the marriage by force or duress, or by fraud involving the essentials of marriage, and that the parties have not ratified their marriage by voluntarily cohabiting after attaining the age of consent, or after attaining capacity to consent, or after cessation of the force or duress or discovery of the fraud, shall declare the marriage invalid as of the date it was purportedly contracted;

(ii) The marriage should not have been contracted because of any reason other than those above, shall upon motion of a party, order any action which may be appropriate to complete or to correct the record and enter a decree declaring such marriage to be valid for all purposes from the date upon which it was purportedly contracted;

(c) If it finds that a marriage contracted in a jurisdiction other than this state, was void or voidable under the law of the place where the marriage was contracted, and in the absence of proof that such marriage was subsequently validated by the laws of the place of contract or of a subsequent domicile of the parties, shall declare the marriage invalid as of the date of the marriage.

(5) Any child of the parties born or conceived during the existence of a marriage of record is legitimate and remains legitimate notwithstanding the entry of a declaration of invalidity of the marriage. [1975 c 32 § 2; 1973 1st ex.s. c 157 § 4.]

26.09.060 Temporary maintenance or child support—Temporary restraining order—Preliminary injunction. (1) In a proceeding for:

(a) Dissolution of marriage, legal separation, or a declaration of invalidity; or

(b) Disposition of property or liabilities, maintenance, or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse; either party may move for temporary maintenance or for temporary support of children entitled to support. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) As a part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary restraining order or preliminary injunction, providing relief proper in the circumstances, and restraining or enjoining any person from:

(a) Transferring, removing, encumbering, concealing, or in any way disposing of any property except in the usual course of business or for the necessities of life, and, if so restrained or enjoined, requiring him to notify the moving party of any proposed extraordinary expenditures made after the order is issued;

(b) Molesting or disturbing the peace of the other party or of any child;

(c) Entering the family home or the home of the other party upon a showing of the necessity therefor;

(d) Removing a child from the jurisdiction of the court.

(3) The court may issue a temporary restraining order without requiring notice to the other party only if it finds on the basis of the moving affidavit or other evidence that irreparable injury could result if an order is not issued until the time for responding has elapsed.

(4) The court may issue a temporary restraining order or preliminary injunction and an order for temporary maintenance or support in such amounts and on such terms as are just and proper in the circumstances.

(5) A temporary order, temporary restraining order, or preliminary injunction:

(a) Does not prejudice the rights of a party or any child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified;

(c) Terminates when the final decree is entered or when the petition for dissolution, legal separation, or declaration of invalidity is dismissed. [1975 c 32 § 3; 1973 1st ex.s. c 157 § 6.]

26.09.280 Child custody or support actions or proceedings—Venue. Hereafter every action or proceeding to change, modify, or enforce any final order, judgment, or decree heretofore or hereafter entered in any dissolution or legal separation or declaration concerning the validity of a marriage, whether under this chapter or prior law, in relation to the care, custody, control, or support of the minor children of the marriage may be brought in the county where said minor children are then residing, or in the court in which said final order, judgment, or decree was entered, or in the

county where the parent or other person who has the care, custody, or control of the said children is then residing. [1975 c 32 § 4; 1973 1st ex.s. c 157 § 28.]

**Chapter 26.28
INFANTS**

Shoplifting by minors, liability of parents, guardians: RCW 4.24.230.

**Chapter 26.44
CHILD ABUSE—REPORTS—PROCEDURE**

Sections	
26.44.010	Declaration of purpose.
26.44.020	Definitions.
26.44.030	Reports—Duty and authority to make—Duty of receiving agency.
26.44.040	Reports—Oral, written—Contents.
26.44.050	Abuse of child—Duty of law enforcement agency or department of social and health services.
26.44.053	Guardian ad litem, appointment—Examination of person having legal custody—Hearing—Procedure.
26.44.056	Protective detention of abused child—Reasonable cause—Notice—Request for transfer of custody.
26.44.060	Immunity from civil or criminal liability—Confidential communications not violated—Actions against state not affected.
26.44.070	Central registry of reported cases of child abuse—Confidentiality—Penalty.
26.44.900	Severability—1975 1st ex.s. c 217.

26.44.010 Declaration of purpose. The Washington state legislature finds and declares: The bond between a child and his or her parent, custodian, or guardian is of paramount importance, and any intervention into the life of a child is also an intervention into the life of the parent, custodian, or guardian; however, instances of nonaccidental injury, neglect, death, sexual abuse and cruelty to children by their parents, custodians or guardians have occurred, and in the instance where a child or mentally retarded person is deprived of his or her right to conditions of minimal nurture, health, and safety, the state is justified in emergency intervention based upon verified information; and therefore the Washington state legislature hereby provides for the reporting of such cases to the appropriate public authorities. It is the intent of the legislature that, as a result of such reports, protective services shall be made available in an effort to prevent further abuses, and to safeguard the general welfare of such children: *Provided*, That such reports shall be maintained and disseminated with strictest regard for the privacy of the subjects of such reports and so as to safeguard against arbitrary, malicious or erroneous information or actions: *Provided further*, That this chapter shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety. [1975 1st ex.s. c 217 § 1; 1969 ex.s. c 35 § 1; 1965 c 13 § 1.]

26.44.020 Definitions. For the purpose of and as used in this chapter:

(1) "Court" means the superior court of the state of Washington, juvenile department.

(2) "Law enforcement agency" means the police department, the prosecuting attorney, the state patrol, the director of public safety, or the office of the sheriff.

(3) "Practitioner of the healing arts" or "practitioner" means a person licensed by this state to practice podiatry, optometry, chiropractic, nursing, dentistry, osteopathy and surgery, or medicine and surgery. The term "practitioner" shall include a duly accredited Christian Science practitioner: *Provided, however*, That a child who is being furnished Christian Science treatment by a duly accredited Christian Science practitioner shall not be considered, for that reason alone, a neglected child for the purposes of this chapter.

(4) "Institution" means a private or public hospital or any other facility providing medical diagnosis, treatment or care.

(5) "Department" means the state department of social and health services.

(6) "Child" or "children" means any person under the age of eighteen years of age and shall also include any mentally retarded person regardless of age.

(7) "Professional school personnel" shall include, but not be limited to, teachers, counselors, administrators, child care facility personnel, and school nurses.

(8) "Social worker" shall mean anyone engaged in a professional capacity during the regular course of employment in encouraging or promoting the health, welfare, support or education of children, or providing social services to adults or families, whether in an individual capacity, or as an employee or agent of any public or private organization or institution.

(9) "Psychologist" shall mean any person licensed to practice psychology under chapter 18.83 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(10) "Pharmacist" shall mean any registered pharmacist under the provisions of chapter 18.64 RCW, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(11) "Clergyman" shall mean any regularly licensed or ordained minister or any priest of any church or religious denomination, whether acting in an individual capacity or as an employee or agent of any public or private organization or institution.

(12) "Child abuse or neglect" shall mean the injury, sexual abuse, or negligent treatment or maltreatment of a child by a person who is legally responsible for the child's welfare under circumstances which indicate that the child's health, welfare and safety is harmed thereby. An abused child is a child who has been subjected to child abuse or neglect as defined herein. "Negligent treatment or maltreatment" shall mean an act or omission which evinces a serious disregard of consequences of such magnitude as to constitute a clear and present

danger to the child's health, welfare and safety: *Provided*. That this subsection shall not be construed to authorize interference with child-raising practices, including reasonable parental discipline, which are not proved to be injurious to the child's health, welfare and safety.

(13) "Child protective services section" shall mean the child protective services section of the department. [1975 1st ex.s. c 217 § 2; 1969 ex.s. c 35 § 2; 1965 c 13 § 2.]

26.44.030 Reports—Duty and authority to make—Duty of receiving agency. (1) When any practitioner, professional school personnel, registered or licensed nurse, social worker, psychologist, pharmacist, or employee of the department of social and health services has reasonable cause to believe that a child has suffered child abuse or neglect, he shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(2) Any other person who has reasonable cause to believe that a child has suffered child abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040 as now or hereafter amended.

(3) The department or any law enforcement agency receiving a report of an incident of child abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him other than by accidental means or who has been subjected to sexual abuse shall report such incident to the proper county prosecutor for appropriate action. [1975 1st ex.s. c 217 § 3; 1971 ex.s. c 167 § 1; 1969 ex.s. c 35 § 3; 1965 c 13 § 3.]

26.44.040 Reports—Oral, written—Contents. An immediate oral report shall be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, shall be followed by a report in writing. Such reports shall contain the following information, if known:

- (1) The name, address, and age of the child;
- (2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;
- (3) The nature and extent of the child's injury or injuries;
- (4) The nature and extent of the neglect of the child;
- (5) The nature and extent of the sexual abuse;
- (6) Any evidence of previous injuries, including their nature and extent; and
- (7) Any other information which may be helpful in establishing the cause of the child's death, injury, or injuries and the identity of the perpetrator or perpetrators. [1975 1st ex.s. c 217 § 4; 1971 ex.s. c 167 § 2; 1969 ex.s. c 35 § 4; 1965 c 13 § 4.]

26.44.050 Abuse of child—Duty of law enforcement agency or department of social and health services. Upon the receipt of a report concerning the possible occurrence of child abuse or neglect, it shall be the duty of the law enforcement agency or the department of social and health services to investigate and provide the child protective services section with a report in accordance with the provision of chapter 74.13 RCW, and where necessary to refer such report to the court. Notwithstanding the provisions of RCW 13.04.130 as now or hereafter amended, the law enforcement agency or the department of social and health services investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child at the time the child was taken into custody. [1975 1st ex.s. c 217 § 5; 1971 ex.s. c 302 § 15; 1969 ex.s. c 35 § 5; 1965 c 13 § 5.]

Severability—1971 ex.s. c 302: See note following RCW 9.41.010.

26.44.053 Guardian ad litem, appointment—Examination of person having legal custody—Hearing—Procedure. (1) In any judicial proceeding in which it is alleged that a child has been subjected to child abuse or neglect the court shall appoint a guardian ad litem for the child: *Provided*. That the requirement of a guardian ad litem shall be deemed satisfied if the child is represented by counsel in the proceedings.

(2) At any time prior to or during a hearing in such a case, when the court finds upon clear, cogent and convincing evidence that an incident of child abuse or neglect has occurred, the court may, on its own motion, or the motion of the guardian ad litem, or other parties, order the examination by a physician, psychologist or psychiatrist, of any parent or child or other person having custody of the child at the time of the alleged child abuse or neglect, if the court finds such an examination is necessary to the proper determination of the case. The hearing may be continued pending the completion of such examination. The physician, psychologist or psychiatrist conducting such an examination may be required to testify in the dispositional hearing concerning the results of such examination and may be asked to give his opinion as to whether the protection of the child requires that he not be returned to the custody of his parents or other persons having custody of him at the time of the alleged child abuse or neglect. Persons so testifying shall be subject to cross-examination as are other witnesses. No testimony given at any such examination of the parent or any other person having custody of the child may be used against such person in any subsequent criminal proceedings against such person or custodian concerning the abuse or neglect of the child.

(3) A parent or other person having legal custody of a child alleged to be a child subjected to abuse or neglect shall be a party to any proceeding that may as a practical matter impair or impede such person's interest in custody or control of his or her child. [1975 1st ex.s. c 217 § 8.]

26.44.056 Protective detention of abused child—Reasonable cause—Notice—Request for transfer of custody. An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if the circumstances or conditions of the child are such that the detaining individual has reasonable cause to believe that permitting the child to continue in his or her place of residence or in the care and custody of the parent, guardian, custodian or other person legally responsible for the child's care would present an imminent danger to that child's safety: *Provided*, That such administrator or physician shall immediately notify or cause to be notified the appropriate law enforcement agency or juvenile court officer pursuant to RCW 26.44.040 and request immediate transfer of custody. Such temporary protective custody by an administrator or doctor shall not be deemed an arrest and shall continue only until supervisory custody is assumed by the appropriate law enforcement agency or juvenile court. [1975 1st ex.s. c 217 § 9.]

26.44.060 Immunity from civil or criminal liability—Confidential communications not violated—Actions against state not affected. (1) Any person participating in good faith in the making of a report pursuant to this chapter or testifying as to alleged child abuse or neglect in a judicial proceeding shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW taking a child into custody pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60-.060 (3) and (4) and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW. [1975 1st ex.s. c 217 § 6; 1965 c 13 § 6.]

26.44.070 Central registry of reported cases of child abuse—Confidentiality—Penalty. The department shall maintain a central registry of reported cases of child abuse and shall adopt such rules and regulations as necessary in carrying out the provisions of this section. Records in the central registry shall be considered confidential and privileged and will not be available except upon court order to any person or agency except (1) law enforcement agencies as defined in this chapter in the course of an investigation of alleged child abuse or neglect; (2) to child protective services workers or juvenile court personnel who are investigating reported incidences of child abuse or neglect; (3) physicians who are treating the child or family; (4) any child named in the registry who is alleged to be abused or neglected, or

his or her guardian ad litem and/or attorney; (5) a parent, guardian, or other person legally responsible for the welfare and safety of the child named in the registry; (6) any person engaged in a bona fide research purpose, as determined by the department, according to rules and regulations, provided that information identifying the persons of the registry shall remain privileged; and (7) any individual whose name appears on the registry shall have access to his own records. Those persons or agencies exempted by this section from the confidentiality of the records of the registry shall not further disseminate or release such information so provided to them and shall respect the confidentiality of such information, and any violation of this section shall constitute a misdemeanor. [1975 1st ex.s. c 217 § 7; 1972 ex.s. c 46 § 1; 1969 ex.s. c 35 § 6.]

26.44.900 Severability—1975 1st ex.s. c 217. If any provision of this 1975 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. [1975 1st ex.s. c 217 § 10.]

Title 27 LIBRARIES, MUSEUMS AND HISTORICAL ACTIVITIES

Chapters

- 27.12 Public libraries.**
- 27.16 Educational service district circulating libraries.**
- 27.24 County law libraries.**
- 27.40 Museum of University of Washington.**
- 27.53 Archaeological sites and resources.**

Chapter 27.12 PUBLIC LIBRARIES

Sections

- 27.12.285 Library services for Indian tribes.

27.12.285 Library services for Indian tribes. The legislature finds that it is necessary to give the several boards of library trustees in this state additional powers in order to effectuate the state's policy with regard to libraries as set forth in RCW 27.12.020. On and after March 27, 1975 the board of library trustees in any county of this state, in addition to any other powers and duties, is hereby authorized to provide library services to Indian tribes recognized as such by the federal government or to supplement any existing library services of such an Indian tribe. The power granted by this section shall extend beyond the geographic limits of the library district and the county or counties in which the district is located. [1975 c 50 § 1.]

Chapter 27.16
EDUCATIONAL SERVICE DISTRICT
CIRCULATING LIBRARIES

Sections

- 27.16.010 Educational service district board may establish—Depository of instructional materials.
27.16.020 Tax levy for circulating school library fund—Deposit—Payments from fund.
27.16.030 Allowance of bills.
27.16.040 Purchase of books, instructional materials and fixtures.
27.16.050 Disapproval of books by state educational officials.
27.16.060 Duties of educational service district superintendent.

27.16.010 Educational service district board may establish—Depository of instructional materials. The educational service district board of each educational service district may establish a circulating library and depository of instructional materials for the use and benefit of the pupils of the common schools of such educational service district. [1975 1st ex.s. c 275 § 39; 1969 ex.s. c 176 § 25; 1955 c 163 § 1; 1909 c 97 p 320 § 1; 1903 c 104 § 27; RRS § 4926. Cf. 1901 c 177 § 13; 1897 c 118 § 106.]

27.16.020 Tax levy for circulating school library fund—Deposit—Payments from fund. Each board of county commissioners may levy a tax not exceeding two and one-half cents per thousand dollars of assessed value for the support of the circulating library in its educational service district. The proceeds of the tax collected shall constitute the circulating school library fund for the payment of all bills created by the educational service district for the purchase of books and instructional materials and fixtures. The fund shall be deposited in the office of the county treasurer in which other educational service district funds are deposited, and shall be payable on order of the educational service district board. [1975 1st ex.s. c 275 § 40; 1973 1st ex.s. c 195 § 8; 1969 ex.s. c 176 § 26; 1955 c 163 § 2; 1909 c 97 p 320 § 2; 1903 c 104 § 28; RRS § 4927. Cf. 1901 c 177 § 14; 1897 c 118 § 107.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

27.16.030 Allowance of bills. The educational service district board shall allow no bill or bills against said fund until it shall have been certified to be correct by the educational service district superintendent. [1975 1st ex.s. c 275 § 41; 1969 ex.s. c 176 § 27; 1909 c 97 p 320 § 3; RRS § 4928.]

27.16.040 Purchase of books, instructional materials and fixtures. The educational service district shall purchase no books or instructional materials, or fixtures for the circulating library until there shall be to the credit of the circulating school library fund sufficient money to pay the purchase price thereof. [1975 1st ex.s. c 275 § 42; 1969 ex.s. c 176 § 28; 1955 c 163 § 3; 1909 c 97 p 320 § 4; RRS § 4929.]

27.16.050 Disapproval of books by state educational officials. No book or instructional material shall be placed in an educational service district circulating library that has been disapproved by the state board of

education or the superintendent of public instruction. [1975 1st ex.s. c 275 § 43; 1969 ex.s. c 176 § 29; 1955 c 163 § 4; 1909 c 97 p 320 § 5; RRS § 4930.]

27.16.060 Duties of educational service district superintendent. The educational service district superintendent shall purchase the books and instructional materials and enforce such rules and regulations for their distribution, use, care, and preservation as he deems necessary. [1975 1st ex.s. c 275 § 44; 1969 ex.s. c 176 § 30; 1955 c 163 § 5; 1909 c 97 p 320 § 6; RRS § 4931.]

Chapter 27.24
COUNTY LAW LIBRARIES

Sections

- SEVENTH AND EIGHTH CLASS COUNTIES
- 27.24.068 Establishment of county law library—Trustee—Free use of library.

SUPPORT

- 27.24.090 Discontinuance of fees.

SEVENTH AND EIGHTH CLASS COUNTIES

27.24.068 Establishment of county law library—Trustee—Free use of library. In each county of the seventh and eighth class, there may be a county law library which shall be governed and maintained by the prosecuting attorney who shall also serve as trustee of such library without additional salary or other compensation.

The use of the county law library shall be free to the judges of the state, to state and county officials, and to members of the bar, and to such others as the prosecuting attorney may by rule provide. [1975 c 37 § 1.]

SUPPORT

27.24.090 Discontinuance of fees. The collection of the fees directed in RCW 27.24.070 shall be discontinued whenever the board of trustees of a county library or the prosecuting attorney, as the case may be, files with the county clerk and clerks of the justice courts a written resolution to the effect that the county library fund in its county is sufficient for all present needs, which resolution shall remain effective until it is later rescinded. Upon its rescission, the county clerk and clerks of the justice courts shall resume the collection of such fees. [1975 c 37 § 2; 1953 c 249 § 3; 1933 c 167 § 2, part; 1925 ex.s. c 94 § 3, part; RRS § 8254-3, part.]

Chapter 27.40
MUSEUM OF UNIVERSITY OF WASHINGTON

Sections

- 27.40.034 Permanent acquisition of documents and materials on loan to museum, procedure—Return of stolen documents and materials to owner.
27.40.036 Sale or trade of acquired documents or materials—Use of proceeds.

27.40.034 Permanent acquisition of documents and materials on loan to museum, procedure—Return of stolen documents and materials to owner. The board of regents may provide, by rule or regulation, for:

(1) The permanent acquisition of documents or materials on loan to the state museum at the University of Washington, if such documents or materials have not been claimed by the owner thereof within ninety days after notice is sent by certified mail, return receipt requested, to the owner at his last known address by the board of regents and if such certified letter be returned because it could not be delivered to the addressee, public notice shall be published by the University of Washington once each week during two successive weeks in a daily newspaper circulating in the city of Seattle and the county of King describing the unclaimed documents or materials, giving the name of the reputed owner thereof and requesting all persons who may have any knowledge of the whereabouts of such owner to contact the office of the museum of the University of Washington: *Provided however*, That more than one item may be described in each of such notices;

(2) The return to the rightful owner of documents or materials in the possession of the museum, which documents or materials are determined to have been stolen: *Provided*, That any person claiming to be the rightful legal owner of such documents or materials who wishes to challenge such determination by said board shall have the right to commence a declaratory judgment action pursuant to chapter 7.24 RCW in the superior court for King county to determine the validity of his claim of ownership to such documents or materials. [1975 1st ex.s. c 159 § 1.]

27.40.036 Sale or trade of acquired documents or materials—Use of proceeds. Documents or materials acquired under the provisions of RCW 27.40.034 may be sold, or may be traded for other documents or materials. The proceeds from the sale of any such documents or materials may be used to acquire additional documents or materials or may be used to defray the cost of operating the museum. [1975 1st ex.s. c 159 § 2.]

Chapter 27.53

ARCHAEOLOGICAL SITES AND RESOURCES

Sections	
27.53.010	Declaration.
27.53.020	Archaeological resource preservation, etc., declared public functions—Archaeological research center designated state agency—Cooperation enjoined.
27.53.030	Definitions.
27.53.040	Archaeological resources—Declaration.
27.53.050	Archaeological site recorded on state or federal register deemed archaeological resource—Consent of landowner—Recording.
27.53.060	Disturbing, etc., archaeological resource or site without permission unlawful—Exceptions.
27.53.070	Field investigations—Communication of site or resource location to research center.
27.53.080	Archaeological activities upon public lands—Entry—Agreement—Approval of activities.
27.53.090	Penalty.
27.53.900	Severability—1975 1st ex.s. c 134.

Preservation of historic properties, including archaeological resources: RCW 43.51.750–43.51.820.

27.53.010 Declaration. The legislature hereby declares that the public has an interest in the conservation, preservation, and protection of the state's archaeological resources, and the knowledge to be derived and gained from the scientific study of these resources. [1975 1st ex.s. c 134 § 1.]

27.53.020 Archaeological resource preservation, etc., declared public functions—Archaeological research center designated state agency—Cooperation enjoined. The location, excavation, and study of the state's archaeological resources, the providing of information on archaeological sites for their nomination to the state and national registers of historic places, the maintaining of a complete inventory of archaeological sites and collections, and the providing of information to state, federal, and private construction agencies regarding the possible impact of construction activities on the state's archaeological resources, are proper public functions; and the Washington archaeological research center is hereby designated as an appropriate agency to carry out these functions. The legislature directs that there shall be full cooperation amongst the office of archaeological and historic preservation, the Washington archaeological research center and other agencies of the state. [1975 1st ex.s. c 134 § 2.]

Advisory council on historic preservation: RCW 43.51.790.

Preservation of archaeological and other historical properties: RCW 43.51.750–43.51.820.

27.53.030 Definitions. Unless the context clearly requires otherwise, the definitions contained in this section shall apply throughout this chapter.

(1) "Archaeology" means systematic, scientific study of man's past through his material remains.

(2) "Historic" means peoples and cultures who are known through written documents in their own or other languages.

(3) "Prehistoric" means peoples and cultures who are unknown through contemporaneous written documents in any language.

(4) "Professional archaeologist" means a person who has extensive formal training and experience in systematic, scientific archaeology as defined in subsection (1) of this section, and who makes his or her living primarily through research in, teaching of, and/or publication on archaeology, and who is so recognized by members of the profession of archaeology through his or her participation in the activities of professional organizations of archaeologists.

(5) "Qualified archaeologist" means a person who has had formal training and/or experience in archaeology over a period of at least three years, and has been certified in writing to be a qualified archaeologist by two professional archaeologists.

(6) "Amateur society" means any organization composed primarily of persons who are not professional archaeologists, whose primary interest is in the archaeological resources of the state, and which has

been certified in writing by two professional archaeologists. [1975 1st ex.s. c 134 § 3.]

27.53.040 Archaeological resources—Declaration. All sites, objects, structures, artifacts, implements, and locations of prehistorical or archaeological interest, whether previously recorded or still unrecognized, including, but not limited to, those pertaining to prehistoric and historic American Indian or aboriginal burials, campsites, dwellings, and habitation sites, including rock shelters and caves, their artifacts and implements of culture such as projectile points, arrowheads, skeletal remains, grave goods, basketry, pestles, mauls and grinding stones, knives, scrapers, rock carvings and paintings, and other implements and artifacts of any material that are located in, on, or under the surface of any lands or waters owned by or under the possession, custody, or control of the state of Washington or any county, city, or political subdivision of the state are hereby declared to be archaeological resources. [1975 1st ex.s. c 134 § 4.]

27.53.050 Archaeological site recorded on state or federal register deemed archaeological resource—Consent of landowner—Recording. Any archaeological site located upon private lands or state trust lands, which is recorded according to the provisions of RCW 43.51.770(1), on the state or federal register of historic sites and places shall be included as an archaeological resource under the provisions of this chapter: *Provided*, That no such site located upon private or state trust land shall be so included under the provisions of this chapter without the written consent of the landowner in a recordable form sufficiently describing the site so that it may be located upon the ground. The consent of the landowner shall be recorded by the office of archaeological and historic preservation in the records of the county auditor of the county in which the land is located and a copy of such consent shall be transmitted by the office of archaeological and historic preservation to the Washington archaeological research center. [1975 1st ex.s. c 134 § 5.]

State register of archaeological and other historic properties: RCW 43.51.770(1).

27.53.060 Disturbing, etc., archaeological resource or site without permission unlawful—Exceptions. On the private and public lands of this state it shall be unlawful for any person, firm, or corporation to wilfully alter, dig into, or excavate by use of any mechanical, hydraulic, or other means, or to damage, deface, or destroy any historic or prehistoric archaeological resource or site, American Indian or aboriginal camp site, dwelling site, rock shelter, cave dwelling site, storage site, grave, burial site, or skeletal remains and grave goods, cairn, or tool making site, or to remove from any such land, site, or area, grave, burial site, cave, rock shelter, or cairn, any skeletal remains, artifact or implement of stone, bone, wood, or any other material, including, but not limited to, projectile points, arrowheads, knives, awls, scrapers, beads or ornaments, basketry, matting,

mauls, pestles, grinding stones, rock carvings or paintings, or any other artifacts or implements, or portions or fragments thereof without having obtained the written permission of the public or private landowner. Such written permission shall be physically present while any such activity is being conducted. The provisions of this section shall not apply to the removal of artifacts found exposed on the surface of the ground nor to the excavation and removal of artifacts from state owned shorelands below the line of ordinary high water and from state owned tidelands below the line of ordinary high tide. [1975 1st ex.s. c 134 § 6.]

27.53.070 Field investigations—Communication of site or resource location to research center. It is the declared intention of the legislature that field investigations on privately owned lands should be discouraged except in accordance with both the provisions and spirit of this chapter and persons having knowledge of the location of archaeological sites or resources are encouraged to communicate such information to the Washington archaeological research center. [1975 1st ex.s. c 134 § 7.]

27.53.080 Archaeological activities upon public lands—Entry—Agreement—Approval of activities. Qualified or professional archaeologists, in performance of their duties, are hereby authorized to enter upon public lands of the state of Washington and its political subdivisions, at such times and in such manner as not to interfere with the normal management thereof, for the purposes of doing archaeological resource location and evaluation studies, including site sampling activities. Scientific excavations are to be carried out only after appropriate agreement has been made between the archaeologist and the agency or political subdivision responsible for such lands. Notice of such agreement shall be filed with the Washington archaeological research center and by them to the office of archaeological and historic preservation. Amateur societies may engage in such activities by submitting and having approved by the responsible agency or political subdivision a written proposal detailing the scope and duration of the activity. Before approval, a proposal from an amateur society shall be submitted to the Washington archaeological research center for review and recommendation. [1975 1st ex.s. c 134 § 8.]

27.53.090 Penalty. Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each day of continued violation of any provision of this chapter shall constitute a distinct and separate offense. [1975 1st ex.s. c 134 § 9.]

27.53.900 Severability—1975 1st ex.s. c 134. 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. [1975 1st ex.s. c 134 § 10.]

Title 28A COMMON SCHOOL PROVISIONS

Chapters

- 28A.01 Definitions.
- 28A.02 General provisions.
- 28A.03 Superintendent of public instruction.
- 28A.04 State board of education.
- 28A.09 Vocational education generally. (See chapter 28C.04 RCW)
- 28A.13 Special education—Division for handicapped children.
- 28A.14 Special education—Division of recreation.
- 28A.21 Educational service districts—Superintendent—Boards.
- 28A.24 School transportation.
- 28A.27 Compulsory school attendance.
- 28A.31 Health measures.
- 28A.35 Kindergartens.
- 28A.41 Current state school fund—School district reimbursement programs.
- 28A.44 Basis of apportionment at county level—County high school levy against nonhigh school districts.
- 28A.45 Excise tax on real estate sales.
- 28A.47 School plant facilities aid—Bond issues.
- 28A.48 Apportionment to districts—District accounting.
- 28A.52 Validating indebtedness—Bonds.
- 28A.56 Capital fund aid by nonhigh districts.
- 28A.57 Organization and reorganization of school districts.
- 28A.58 Provisions applicable to all school districts.
- 28A.59 Provisions applicable only to first class districts.
- 28A.60 Provisions applicable only to second and third class districts.
- 28A.65 School district budgets.
- 28A.66 School district warrants, auditor's duties relating to.
- 28A.67 Teachers—General provisions.
- 28A.70 Teachers' certification.
- 28A.71 Teachers' institutes, workshops and other in-service training.
- 28A.72 Negotiations by certificated personnel.
- 28A.85 Sexual equality mandated for public schools.
- 28A.87 Offenses relating to schools, school personnel—Penalties.
- 28A.88 Appeals from action or nonaction of school officials and school boards.

Discrimination—Separation of sexes in dormitories, residence halls, etc: RCW 49.60.222.

Educational employment relations act: Chapter 41.59 RCW.

Chapter 28A.01 DEFINITIONS

Sections

- 28A.01.130 Certificated employee. (Effective January 1, 1976.)

"Classroom teacher" defined for pupil/teacher ratio purposes: RCW 28A.41.130.

28A.01.130 Certificated employee. (Effective January 1, 1976.) The term "certificated employee" as used in RCW 28A.58.450 through 28A.58.515, 28A.58.445, 28A.67.065, 28A.67.070, 28A.67.074 and 28A.01.130 and chapter 41.59 RCW, each as now or hereafter amended, shall include those persons who hold certificates as authorized by rule or regulation of the state board of education or the superintendent of public instruction. [1975 1st ex.s. c 288 § 21; 1973 1st ex.s. c 105 § 1.]

Effective dates—1975 1st ex.s. c 288: See RCW 41.59.940.

Severability—1975 1st ex.s. c 288: See RCW 41.59.950.

Construction of chapter—Employee's rights preserved: RCW 41.59.920.

Construction of chapter—Employer's responsibilities and rights preserved: RCW 41.59.930.

Chapter 28A.02 GENERAL PROVISIONS

Sections

- 28A.02.070 Programs in observance of Veterans' Day.
- 28A.02.201 Private schools—Scope of state control—Generally.
- 28A.02.260 Professional certification not to be required of superintendents, deputy or assistant superintendents.

Educational employment relations act: Chapter 41.59 RCW.

Housing for superintendent—Second and third class districts: RCW 28A.60.350–28A.60.352.

Learning/language disabilities, screening for: RCW 28A.03.300–28A.03.320.

28A.02.070 Programs in observance of Veterans' Day. On the Friday preceding the fourth Monday in October of each year, there shall be presented in each common school as defined in RCW 28A.01.060 a program suitable to the observance of Veterans' Day.

The responsibility for the preparation and presentation of such program approximating sixty minutes in length shall be with the principal or head teacher of each school building and such program shall embrace topics tending to instill a loyalty and devotion to the institutions and laws of this state and nation.

The superintendent of public instruction and each educational service district superintendent, by advice and suggestion, shall aid in the preparation of such programs if such aid be solicited. [1975 1st ex.s. c 275 § 45; 1970 ex.s. c 15 § 12. Prior: 1969 ex.s. c 283 § 24; 1969 ex.s. c 176 § 101; 1969 ex.s. c 223 § 28A.02.070; prior: 1955 c 20 § 3; prior: (i) 1939 c 21 § 1; 1921 c 56 § 1; RRS § 4899. (ii) 1921 c 56 § 2; RRS § 4900. (iii) 1921 c 56 § 3; RRS § 4901. Formerly RCW 28.02.070.]

Severability—1970 ex.s. c 15: "If any provision of this 1970 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." [1970 ex.s. c 15 § 32.] This applies to RCW 28A.02.070, 28A.10.080, 28A.10.110, 28A.27.102, 28A.47.784, 28A.48.010, 28A.67.070 and 28A.87.030, 28B.10.280, 28B.40.190, 28B.50.140, 28B.50.340, 28B.50.350 and 28B.50.360.

Effective date—RCW 28A.02.070—1970 ex.s. c 15: "Notwithstanding any other provision of this 1970 amendatory act, the provisions of section 12 hereof shall not take effect until January 1, 1971 and only if at such time or thereafter chapter 223, Laws of 1969 ex. sess. is effective." [1970 ex.s. c 15 § 13.] Section 12 of this 1970 amendatory act is RCW 28A.02.070 above; chapter 223, Laws of 1969 ex. sess. becomes effective July 1, 1970; see RCW 28A.98.080, 28B.98.080.

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

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.02.201 Private schools—Scope of state control—Generally. The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. Minimum requirements shall be as follows:

(1) The minimum school year shall be the same as that required of public schools in RCW 28A.01.025 as now or hereafter amended.

(2) The length of the school day shall be the same as that required of public schools in RCW 28A.01.010 as now or hereafter amended.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(4) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(5) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: *Provided*, That each school building shall meet reasonable health and fire safety requirements.

(6) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(7) In compliance with provisions of RCW 28A.31.010 as now or hereafter amended and rules or regulations of the state board of education, each private

school teacher shall file with the educational service district in which the school is located a valid health certificate issued by the state department of social and health services.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (6) above provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved. [1975 1st ex.s. c 275 § 71; 1974 ex.s. c 92 § 2.]

28A.02.260 Professional certification not to be required of superintendents, deputy or assistant superintendents. Notwithstanding any other provision of Title 28A RCW, the state board of education or superintendent of public instruction shall not require any professional certification or other qualifications of any person elected superintendent of a local school district by that district's board of directors, or any person hired in any manner to fill a position designated as, or which is, in fact, deputy superintendent, or assistant superintendent. [1975 1st ex.s. c 254 § 3.]

Severability—1975 1st ex.s. c 254: "If any provision of this 1975 amendatory act, or its application to any person or circumstances is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1975 1st ex.s. c 254 § 4.] This applies to RCW 28A.02.260, 28A.58.101 and 28A.58.137.

Chapter 28A.03

SUPERINTENDENT OF PUBLIC INSTRUCTION

Sections

- 28A.03.028 Assistance of educational service district boards and superintendents—Scope.
- 28A.03.030 Powers and duties generally.
- 28A.03.050 Accumulated sick leave fund established in office for all districts—Contributions to. (Amended)
- 28A.03.050 Accumulated sick leave fund established in office for all districts—Contributions to. (Repealed)
- 28A.03.051 Accumulated sick leave fund moneys transferred.
- 28A.03.095 Additional powers and duties—Report on school districts' maintenance of adequate learning resources services.
- 28A.03.100 Additional powers and duties—Vocational education, relating to.
- 28A.03.300 Learning/language disabilities, screening for—Purpose.
- 28A.03.310 Learning/language disabilities, screening for—Program—Duties prescribed.
- 28A.03.320 Learning/language disabilities, screening for—Short title.
- 28A.03.350 Studies and adoption of classifications for school district budgets—Publication.

Commission for vocational education, superintendent as member: RCW 28C.04.030.

Professional certification not to be required of superintendent, deputy or assistant superintendents: RCW 28A.02.260.

28A.03.028 Assistance of educational service district boards and superintendents—Scope. The superintendent of public instruction, by rule or regulation, may require the assistance of educational service district boards and/or superintendents in the performance of any duty, authority, or power imposed upon or granted to the superintendent of public instruction by law or by the Constitution of the state of Washington, upon such terms and conditions as the superintendent of public instruction shall establish. Such authority to assist the superintendent of public instruction shall be limited to the service function of information collection and dissemination and the attestation to the accuracy and completeness of submitted information. [1975 1st ex.s. c 275 § 46; 1971 ex.s. c 282 § 29.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.03.030 Powers and duties generally. In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state.

(2) To report biennially to the governor on or before the first day of November preceding the regular session of the legislature, of which report a sufficient number of copies as the superintendent shall deem necessary shall be printed and delivered to the superintendent of public instruction, who shall furnish copies to be deposited with the state library, to each educational service district superintendent and to each school district library in such amount as he shall deem sufficient therefor. Said report shall contain a statement of the general condition of the public schools of the state, with full statistical tables by counties showing the number of schools and the attendance, the state and educational service district funds apportioned, amounts received from special taxes and from other sources, amounts expended for salaries of teachers, the salaries paid to the educational service district superintendents and the amount paid for incidentals and expenses; the amount paid for building and providing schoolhouses with furniture and apparatus, the amount of bonded and other school indebtedness, with the rate of interest paid thereon, such reports of state educational institutions, or such portions of them as he may think advisable, together with such other facts as he may deem of general interest. The superintendent may include as a part of such report any information or estimates obtained for the purposes of RCW 43.88.090. He shall also include in his report a statement of plans for the management and improvement of the schools.

(3) To prepare and have printed such forms, registers, courses of study, rules and regulations for the government of the common schools, questions prepared for the examination of persons as provided for in RCW 28A.04.120(7), and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of

the laws relating to the common schools, and to distribute the same to educational service district superintendents.

(4) To travel, without neglecting his other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials.

(5) To prepare and from time to time to revise a manual of the Washington state common school code, which shall be sold at actual cost of publication and distribution, said manual to contain Title 28A RCW and such other matter as the state superintendent or the state board of education shall determine.

(6) To act as ex officio president and the chief executive officer of the state board of education.

(7) To hold, annually, a convention of the educational service district superintendents of the state at such time and place as he may deem convenient, for the discussion of questions pertaining to supervision and the administration of the school laws and such other subjects affecting the welfare and interests of the common schools as may be brought before it. Said convention shall continue in session at the option of the superintendent of public instruction. It shall be the duty of every educational service district superintendent in this state to attend said convention during its entire session, and any educational service district superintendent who attends the convention shall be reimbursed for traveling and subsistence expenses as provided in RCW 28A.21-.130 in attending said convention.

(8) To file all papers, reports and public documents transmitted to him by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in his office, and his official acts, may, or upon request, shall be certified by him and attested by his official seal, and when so certified shall be evidence of the papers or acts so certified to.

(9) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report of such facts arranged in such manner as he may prescribe, and he shall furnish forms for such reports; and it is hereby made the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct.

(10) To keep in his office a record of all teachers receiving certificates to teach in the common schools of this state.

(11) To issue certificates as provided by law.

(12) To keep in his office at the capital of the state, all books and papers pertaining to the business of his office, and to keep and preserve in his office a complete record of statistics, as well as a record of the meetings of the state board of education.

(13) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to him in writing by any educational service district superintendent, or that may be submitted to him by any other person, upon appeal from the decision of any educational service district superintendent; and he shall publish his rulings and decisions from time to time

for the information of school officials and teachers; and his decision shall be final unless set aside by a court of competent jurisdiction.

(14) To administer oaths and affirmations in the discharge of his official duties.

(15) To deliver to his successor, at the expiration of his term of office, all records, books, maps, documents and papers of whatever kind belonging to his office or which may have been received by him for the use of his office.

(16) To perform such other duties as may be required by law. [1975 1st ex.s. c 275 § 47; 1971 ex.s. c 100 § 1; 1969 ex.s. c 176 § 102; 1969 ex.s. c 223 § 28A.03.030. Prior: 1967 c 158 § 4; 1909 c 97 p 231 § 3; RRS § 4523; prior: 1907 c 240 § 1; 1903 c 104 § 9; 1901 c 177 § 5; 1901 c 41 § 1; 1899 c 142 § 4; 1897 c 118 § 22; 1891 c 127 §§ 1, 2; 1890 pp 348-351 §§ 3, 4; Code 1881 §§ 3155-3160; 1873 p 419 §§ 2-6; 1861 p 55 §§ 2, 3, 4. Formerly RCW 28.03.030; 43.11.030.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Studies—1969 ex.s. c 283: "The superintendent of public instruction is directed to develop, prepare and make available information as follows:

(1) A budgetary study of the fiscal impact which would result from payment to substitute teachers, who are on a continuing basis of twelve or more days within any calendar month, at a rate of pay commensurate with their training and experience and at a per diem salary in proportion to the salary for which that teacher would be eligible as a full time teacher;

(2) A study showing the percentage of high school graduates who go on to an institution of higher education, including community colleges, the distribution of such students, and the percentage thereof which continue in higher education through the various grades or years thereof; and

(3) A study of the fiscal impact of establishing one hundred and eighty days as the base salary period for all contracts with certificated employees." [1969 ex.s. c 283 § 8.]

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

28A.03.050 Accumulated sick leave fund established in office for all districts—Contributions to. There shall be established in the office of the superintendent of public instruction an accumulated sick leave fund. Each school district, each office of educational service district superintendent and board of education, and the office of superintendent of public instruction shall contribute to the fund according to a plan established by the superintendent of public instruction based upon the sick leave experience of the previous school year. All school districts shall be reimbursed from this fund for payments made for sick leave in accordance with RCW 28A.58.100. [1975 1st ex.s. c 275 § 48; 1969 ex.s. c 176 § 103; 1969 ex.s. c 223 § 28A.03.050. Prior: 1967 c 12 § 2; 1965 ex.s. c 49 § 2. Formerly RCW 28.03.050.]

Reviser's note: (1) The amendment of this section by 1975 1st ex.s. c 275 does not take cognizance of the section's repeal by 1975 1st ex.s. c 60 § 1.

(2) Educational service district board of education now educational service district board, see RCW 28A.21.030.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.03.050 Accumulated sick leave fund established in office for all districts—Contributions to. [1969 ex.s. c 176 § 103; 1969 ex.s. c 223 § 28A.03.050. Prior: 1967 c 12 § 2; 1965 ex.s. c 49 § 2. Formerly RCW 28.03.050.] Repealed by 1975 1st ex.s. c 60 § 1.

Reviser's note: This section was also amended by 1975 1st ex.s. c 275 § 48 without cognizance of the repeal thereof.

28A.03.051 Accumulated sick leave fund moneys transferred. All moneys remaining in the accumulated sick leave fund in the office of superintendent of public instruction on the thirtieth day of June, 1975, and all moneys thereafter paid into such fund, shall be and are hereby transferred to the general fund of the state. [1975 1st ex.s. c 60 § 2.]

Reviser's note: Section 1 of 1975 1st ex.s. c 60 repealed RCW 28A.03.050 wherein the accumulated sick leave fund was established and its purpose set forth.

Effective date—1975 1st ex.s. c 60: "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 June 30, 1975." [1975 1st ex.s. c 60 § 3.] This applies to RCW 28A.03.051 and the repeal of RCW 28A.03.050.

28A.03.095 Additional powers and duties—Report on school districts' maintenance of adequate learning resources services. After the adoption of the standards pursuant to RCW 28A.04.134, the superintendent of public instruction shall survey, utilizing personnel within his department and not outside consultants, all school districts in the state to determine which districts maintain adequate learning resources services under such standards and the cost necessary to maintain such standards and, with respect to those districts not maintaining such minimum standard services, the cost necessary to increase the quality of such services to satisfy the minimum standards. The superintendent of public instruction shall report the results of the survey to the 1977 legislature. [1975 1st ex.s. c 127 § 2.]

28A.03.100 Additional powers and duties—Vocational education, relating to. See chapter 28C.04 RCW.

28A.03.300 Learning/language disabilities, screening for—Purpose. The legislature recognizes as its initial duty in carrying out its responsibility to see to the education of the children of this state the importance of screening children within the schools to determine if there be any of such children with learning/language disabilities. It is the intent and purpose of RCW 28A.03.300 through 28A.03.320 to identify the number of children with recognizable learning/language disabilities, the type thereof, and to determine educational methods appropriate thereto. [1975 1st ex.s. c 78 § 1.]

Severability—1975 1st ex.s. c 78: "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." [1975 1st ex.s. c 78 § 4.] This applies to RCW 28A.03.300, 28A.03.310 and 28A.03.320.

28A.03.310 Learning/language disabilities, screening for—Program—Duties prescribed. The superintendent of public instruction shall, by rule or regulation in accordance with chapter 34.04 RCW, adopt a program under which all public schools within the state carrying out an elementary school program shall implement an appropriate screening device designed to identify children with learning/language disabilities to be administered to first grade students prior to their entrance into the second grade. After approval by the superintendent, or his designee, of any such appropriate screening device offered by a particular school, such screening shall

be administered not later than January 1, 1976. The results thereof shall be forthwith transmitted to the superintendent of public instruction who shall prepare a detailed report thereof for submission to the governor and to the house and senate education and ways and means committees of the legislature prior to February 1, 1976. Such reports shall include a description of the type of learning/language disabilities identified and the number of children involved therewith, together with recommendations for additional legislation as the superintendent deems appropriate. In no instance in conducting any program under this section shall disclosure of any individual test score obtained pursuant to such program be permitted except to the parents or guardians of such child: *Provided*, That such scores, without identification of the individual concerned, may be utilized in the report and recommendations of the superintendent: *Provided*, That the office of the superintendent of public instruction, the *educational service districts, or the local districts will not use any additional personnel to implement RCW 28A.03.300 through 28A.03.320. [1975 1st ex.s. c 78 § 2.]

*Reviser's note: "educational service districts" is herein substituted for "intermediate school districts", pursuant to RCW 28A.21.010 and 28A.21.900.

Severability—1975 1st ex.s. c 78: See note following RCW 28A.03.300.

28A.03.320 Learning/language disabilities, screening for—**Short title.** RCW 28A.03.300 through 28A.03.320 shall be known and may be cited as the "Screening for Learning/Language Disabilities Act". [1975 1st ex.s. c 78 § 3.]

Severability—1975 1st ex.s. c 78: See note following RCW 28A.03.300.

28A.03.350 Studies and adoption of classifications for school district budgets—**Publication.** The legislature finds that the administration costs of school districts are not sufficiently known to permit sound financial planning by those affected by such costs. Accordingly, the legislature hereby authorize and directs the superintendent of public instruction and the state auditor jointly, and in cooperation with the senate and house committees on education, to conduct appropriate studies and adopt classifications or revised classifications under RCW 28A.65.050, defining what expenditures shall be charged to each budget class including administration. Such studies and classifications shall be published in the form of a manual or revised manual, suitable for use by the governing bodies of school districts, by the superintendent of public instruction, and by the legislature. [1975 1st ex.s. c 5 § 1.]

Chapter 28A.04 STATE BOARD OF EDUCATION

Sections

- 28A.04.040 Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards.
28A.04.060 Election procedure—Certificate.
28A.04.065 Action to contest election—Grounds—Procedure.

- 28A.04.120 Powers and duties generally.
28A.04.133 Additional powers and duties—Rules and regulations accepting national guard high school career training.
28A.04.134 Additional powers and duties—Rules and regulations integrating library and media services into learning resources services.
28A.04.145 Assistance of educational service district boards and superintendents—Scope.

Pupil/teacher ratio provisions, board rules and regulations: RCW 28A.41.130.

Real estate sales contracts, board rules and regulations: RCW 28A.58.045.

28A.04.040 Declarations of candidacy—Qualifications of candidates—Members restricted from service on local boards. Candidates for membership on the state board of education shall file declarations of candidacy with the superintendent of public instruction on forms prepared by the superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, or later than the sixteenth day of September. The superintendent of public instruction may not accept any declaration of candidacy that is not on file in his office or is not postmarked before the seventeenth day of September. No person employed in any school, college, university, or other educational institution or any educational service district superintendent's office or in the office of superintendent of public instruction shall be eligible for membership on the state board of education and each member elected must be a resident of the congressional district from which he was elected. No member of a board of directors of a local school district shall continue to serve in that capacity after having been elected to the state board. [1975 1st ex.s. c 275 § 49; 1971 c 48 § 1; 1969 ex.s. c 223 § 28A.04.040. Prior: 1967 ex.s. c 67 § 6; 1955 c 218 § 5. Formerly RCW 28.04.040; 43.63.023.]

Severability—1971 c 48: "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 48 § 55.] This applies to RCW 28A.04.040, 28A.04.120, 28A.13.020, 28A.14.020, 28A.14.050, 28A.21.105, 28A.21.106, 28A.24.150, 28A.27.040, 28A.28.010, 28A.28.030, 28A.31.050, 28A.35.030, 28A.41.160, 28A.44.050, 28A.44.060, 28A.44.070, 28A.44.080, 28A.44.090, 28A.44.100, 28A.56.030, 28A.56.040, 28A.56.050, 28A.56.060, 28A.57.020, 28A.57.080, 28A.57.415, 28A.58.100, 28A.58.103, 28A.58.150, 28A.58.560, 28A.58.603, 28A.59.080, 28A.59.150, 28A.60.070, 28A.60.186, 28A.60.210, 28A.65.080, 28A.65.100, 28A.65.110, 28A.65.120, 28A.65.150, 28A.65.153, 28A.65.180, 28A.66.050, 28A.66.060, 28A.66.100, 28A.67.040, 28A.67.060, 28A.70.130, 28A.70.160, 28A.70.170, 28A.88.070 and 28A.96.040.

28A.04.060 Election procedure—Certificate. Each member of the state board of education shall be elected by a majority of the electoral points accruing from all the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October following the call of the election. The superintendent of public instruction and an election board comprised of three persons appointed by the state board of education shall count and tally the votes and the electoral points accruing therefrom not later than the twenty-fifth day of October in the following

manner: Each vote cast by a school director shall be accorded as many electoral points as there are enrolled students in that director's school district as determined by the enrollment reports forwarded to the state superintendent of public instruction for apportionment purposes for the month of September of the year of election: *Provided*, That school directors from a school district which has more than five directors shall have their electoral points based upon enrollment recomputed by multiplying such number by a fraction, the denominator of which shall be the number of directors in such district, and the numerator of which shall be five; the electoral points shall then be tallied for each candidate as the votes are counted; and it shall be the majority of electoral points which determines the winning candidate. If no candidate receives a majority of the electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education is elected, the superintendent of public instruction shall certify to the secretary of state the name or names of the persons elected to be members of the state board of education. [1975 c 19 § 2; 1969 ex.s. c 283 § 25; 1969 ex.s. c 223 § 28A.04.060. Prior: 1967 c 158 § 1; 1955 c 218 § 4; 1947 c 258 § 3; Rem. Supp. 1947 § 4525-2. Formerly RCW 28.04.060; 43.63.030.]

Severability—1975 c 19: "If any provision of this 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." [1975 c 19 § 3.] This applies to RCW 28A.04.060 and 28A.04.065.

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

28A.04.065 Action to contest election—
Grounds—Procedure. Any common school district board member eligible to vote for a candidate for membership on the state board of education or any candidate for the position, within ten days after the state superintendent of public instruction's certification of election, may contest the election of the candidate for any of the following causes:

(1) For malconduct on the part of the state superintendent of public instruction or any member of the election board with respect to such election;

(2) Because the person whose right is being contested was not eligible for membership on the state board of

education at the time the person was certified as elected;

(3) Because the person whose right is being contested gave a bribe or reward to a voter or to an inspector, judge or clerk of the election for the purpose of procuring the person's election, or offered to do so;

(4) On account of illegal votes.

An action contesting an election pursuant to this section shall be conducted in compliance with RCW 29.65.020 and 29.65.040 through 29.65.120, as now or hereafter amended. [1975 c 19 § 1.]

Severability—1975 c 19: See note following RCW 28A.04.060.

28A.04.120 Powers and duties generally. In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve the program of courses leading to teacher certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive teachers' certification.

(2) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to teachers' certification, and prepare an accredited list of those higher institutions of education of this and other states whose graduates may be awarded teachers' certificates.

(3) Supervise the issuance of teachers' certificates and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW 28A.70.005.

(4) Examine and accredit secondary schools and approve, subject to the provisions of RCW 28A.02.201, private schools carrying out a program for any or all of the grades one through twelve: *Provided*, That no public or private high schools shall be placed upon the accredited list so long as secret societies are knowingly allowed to exist among its students by school officials.

(5) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(6) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(7) Prepare with the assistance of the superintendent of public instruction a uniform series of questions, with the proper answers thereto for use in the correcting thereof, to be used in the examination of persons, as this code may direct, and prescribe rules and regulations for conducting any such examinations.

(8) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

(9) Prepare courses of instruction in physical education, and direct and enforce such instruction throughout the state, with the assistance of the school officials, educational service district superintendents and the boards of directors of the common schools.

(10) Carry out board powers and duties relating to the organization and reorganization of school districts under chapter 28A.57 RCW.

(11) By rule or regulation promulgated upon the advice of the state fire marshal, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

(12) Hear and decide appeals as otherwise provided by law. [1975 1st ex.s. c 275 § 50; 1974 ex.s. c 92 § 1; 1971 ex.s. c 215 § 1; 1971 c 48 § 2; 1969 ex.s. c 223 § 28A.04.120. Prior: 1963 c 32 § 1; 1961 c 47 § 1; prior: (i) 1933 c 80 § 1; 1915 c 161 § 1; 1909 c 97 p 236 § 5; 1907 c 240 § 3; 1903 c 104 § 12; 1897 c 118 § 27; 1895 c 150 § 1; 1890 p 352 § 8; Code 1881 § 3165; RRS § 4529. (ii) 1919 c 89 § 3; RRS § 4684. (iii) 1909 c 97 p 238 § 6; 1897 c 118 § 29; RRS § 4530. Formerly RCW 28.04.120, 28.58.280, 28.58.281, 28.58.282, 43.63.140.]

Professional certification not to be required of superintendents, deputy or assistant superintendent: RCW 28A.02.260.

28A.04.133 Additional powers and duties—Rules and regulations accepting national guard high school career training. In addition to any other powers and duties as provided by law, the state board of education shall adopt rules and regulations governing and authorizing the acceptance of national guard high school career training in lieu of either required high school credits or elective high school credits. Students enrolled in such national guard programs shall be considered enrolled in the common school last attended preceding enrollment in such national guard program. [1975 1st ex.s. c 262 § 1.]

28A.04.134 Additional powers and duties—Rules and regulations integrating library and media services into learning resources services. By January 1, 1976 the state board of education shall adopt rules or regulations establishing minimum standards for integrating school district library and media services into learning resources centers in order to improve instruction, encourage programs of learning resources services, and to furnish a basis for continuing evaluation for such programs. [1975 1st ex.s. c 127 § 1.]

28A.04.145 Assistance of educational service district boards and superintendents—Scope. The state board of education, by rule or regulation, may require the assistance of educational service district boards and/or

superintendents in the performance of any duty, authority, or power imposed upon or granted to the state board of education by law, upon such terms and conditions as the state board of education shall establish. Such authority to assist the state board of education shall be limited to the service function of information collection and dissemination and the attestation to the accuracy and completeness of submitted information. [1975 1st ex.s. c 275 § 51; 1971 ex.s. c 282 § 30.]

Severability—1971 ex.s. c 282: See notes following RCW 28A.21.010.

Chapter 28A.09 VOCATIONAL EDUCATION GENERALLY (See chapter 28C.04 RCW)

Sections

28A.09.005 Decodified.

28A.09.070 through 28A.09.200 Recodified.

28A.09.005 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.09.070 through 28A.09.200 Recodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.13 SPECIAL EDUCATION—DIVISION FOR HANDICAPPED CHILDREN

Sections

28A.13.020 Division administrative officer—Appointment—Duties.

Learning/language disabilities, screening for: RCW 28A.03.300–28A.03.320.

28A.13.020 Division administrative officer—Appointment—Duties. The superintendent of public instruction shall appoint an administrative officer of the division. The administrative officer, under the direction of the superintendent of public instruction, shall coordinate and supervise the program of special education for all handicapped children in the school districts of the state. He shall cooperate with the educational service district superintendents and local school district superintendents and with all other interested school officials in ensuring that all school districts provide an appropriate educational opportunity for all handicapped children and shall cooperate with the state secretary of social and health services and with county and regional officers on cases where medical examination or other attention is needed. [1975 1st ex.s. c 275 § 52; 1972 ex.s. c 10 § 1. Prior: 1971 ex.s. c 66 § 3; 1971 c 48 § 3; 1969 ex.s. c 223 § 28A.13.020; prior: 1943 c 120 § 3; Rem. Supp. 1943 § 4679–27. Formerly RCW 28.13.020.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

Chapter 28A.14
SPECIAL EDUCATION—DIVISION OF
RECREATION

Sections

28A.14.050 Local and district advisory committees—Duties.

28A.14.050 Local and district advisory committees—Duties. School district officials and the educational service district superintendents may appoint local and/or district advisory recreation committees or designate existing community committees, with the advice of the administrative officer. Such advisory recreation committees shall be appointed from representatives of public and private youth serving agencies and citizens interested in the educational and social welfare of children and adults. The duties of advisory recreation committees shall be to meet with school district officials and the administrative officer for the purpose of discussing and planning the establishment and operation of recreation programs. [1975 1st ex.s. c 275 § 53; 1971 c 48 § 5; 1969 ex.s. c 223 § 28A.14.050. Prior: 1945 c 247 § 7; Rem. Supp. 1945 § 5109-14. Formerly RCW 28.14.050.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.21
EDUCATIONAL SERVICE DISTRICTS—
SUPERINTENDENT—BOARDS

Sections

- 28A.21.010 Purpose.
28A.21.020 Changes in number of, boundaries—Initiating, hearings, considerations—Superintendent's duties.
28A.21.030 ESD board—Members—Number, from board-member districts—Board-member district boundaries, determination of, changes in.
28A.21.0302 ESD board—Members—Elections, filing of candidacy, certification of names.
28A.21.0303 ESD board—Members—Terms.
28A.21.0304 ESD board—Members—Terms, when nine member board.
28A.21.0305 ESD board—Members—Terms, begin when—Vacancies, filling of.
28A.21.0306 ESD board—Members—Restriction on other service.
28A.21.035 ESD board—Return to seven member board.
28A.21.037 ESD board—Vacation of board member position because of failure to attend meetings.
28A.21.040 School district to be entirely within single educational service district.
28A.21.050 ESD board—Members, qualification, oath, bond—Organization—Quorum.
28A.21.060 ESD board—Reimbursement of members for expenses.
28A.21.070 ESD superintendent—Appointment, term, salary, discharge.
28A.21.080 ESD superintendent—Qualifications.
28A.21.086 ESD board—Compliance with rules and regulations—Depository and distribution center—Cooperative service programs.
28A.21.088 ESD board—Teachers' institutes, directors' meetings—Cooperation with state supervisors—Apportioning funds—Certification of data.
28A.21.090 ESD board—Circulating libraries—District budgets—Meetings—Personnel approval—Employee bonds—School district boundary transcripts—Acquisition and disposal of property—Bylaws, regulations—Contractual authority.
28A.21.092 ESD board—Payment of member expenses—Payment of dues into state-wide association of board members, restrictions.

- 28A.21.095 ESD board—Delegation of powers and duties to superintendent.
28A.21.100 Assistant superintendents and other personnel—Appointment, salaries, duties.
28A.21.105 Certificated employees of ESD board and superintendent—Contracts of employment—Nonrenewal of contracts.
28A.21.106 Certificated employees of ESD board and superintendent—Adverse change in contract status—Notice—Probable cause—Review—Appeal.
28A.21.110 ESD superintendent's powers and duties—Generally.
28A.21.111 ESD superintendent's powers and duties—Records and reports.
28A.21.112 ESD superintendent's powers and duties—Oaths and affirmations.
28A.21.113 ESD superintendent's powers and duties—School district budgets—Compulsory attendance—Aid by nonhigh districts—School district organization.
28A.21.120 Headquarters office—County responsibilities, termination—Records transferred, state board duties.
28A.21.130 ESD superintendents, employees—Traveling expenses and subsistence—Advance payment.
28A.21.135 Budgeting procedures for districts.
28A.21.140 District budget—State funds, allocation of—District general expense fund—Created, deposits, expenditures.
28A.21.160 Funds combined into district general expense fund—Distribution formula when county part of more than one district—Distribution if change of district boundaries.
28A.21.170 District budget request—Procedure for approval.
28A.21.180 County funds to go into district general expense fund, minimum amount—Election costs—Services of county officials—Termination of county participation.
28A.21.195 Legal services.
28A.21.200 Ex officio treasurer of district.
28A.21.220 Local school district superintendents to advise board and superintendent.
28A.21.300 State supported environmental study centers—District operation.
28A.21.900 Phrases to have meanings ascribed herein.
Investment of funds, including funds received by ESD—Authority—Procedure: RCW 28A.58.430.
Learning/language disabilities, screening for: RCW 28A.03.300-28A.03.320.
Studies and adoption of classifications for school district budgets—Publication: RCW 28A.03.350.

28A.21.010 Purpose. It shall be the intent and purpose of this chapter to reorganize existing intermediate school district offices in order to:

(1) Establish intermediate school district offices as educational service agencies which will provide cooperative and informational services to local school districts;

(2) Assist the superintendent of public instruction and the state board of education in the performance of their respective statutory or constitutional duties;

(3) Make the territorial organization of intermediate school district offices, hereafter to be known as educational service district offices, as such educational service agencies and the school districts more readily and efficiently adaptable to the changing economic pattern and educational programs within the state; and

(4) Provide the pupils within the state with equal educational opportunities.

After September 8, 1975 all intermediate school districts shall be known as and referred to as educational service districts. [1975 1st ex.s. c 275 § 1; 1971 ex.s. c 282 § 1; 1969 ex.s. c 176 § 1. Formerly RCW 28.19.500.]

Severability—1971 ex.s. c 282: "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 282 § 45.] This applies to RCW 28A.03.028, 28A.04.145, 28A.21.010 through 28A.21.100, 28A.21.110 through 28A.21.190, 28A.21.220, 28A.24.080, 28A.44.050 through 28A.44.100, 28A.60.186, 28A.77.100, and 28A.88.010 through 28A.88.015.

Rights preserved—1969 ex.s. c 176: "The amendment or repeal of any section referred to herein shall not be construed as affecting any existing right acquired under the provisions of the statutes amended or repealed nor any rule, regulation or order adopted pursuant thereto nor as affecting any proceeding as instituted thereunder." [1969 ex.s. c 176 § 160.]

Severability—1969 ex.s. 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." [1969 ex.s. c 176 § 161.]

The above annotations applicable to 1969 ex.s. c 176 apply to RCW 28A.21.010 through 28A.21.100, 28A.21.110 through 28A.21.230, 28A.02.070, 28A.03.030, 28A.03.050, 28A.24.080, 28A.27.040, 28A.27.080, 28A.27.102, 28A.48.010, 28A.48.030, 28A.48.050, 28A.48.055, 28A.48.060, 28A.48.090, 28A.48.100, 28A.57.031–28A.57.033, 28A.57.035–28A.57.050, 28A.57.070–28A.57.075, 28A.57.090, 28A.57.130–28A.57.150, 28A.57.170–28A.57.200, 28A.57.240, 28A.57.245, 28A.57.255, 28A.57.260, 28A.57.290, 28A.57.300, 28A.57.328, 28A.57.350, 28A.57.370, 28A.57.390, 28A.58.225, 28A.58.530, 28A.67.070, 28A.70.110, 28A.70.140, 28A.71.100, 28A.87.030, 28A.87.050, 28A.87.080–28A.87.110, 28A.87.170, 28A.88.020, 28B.40.380 and 28A.57.326, 29.21.080, 29.21.085, 29.21.150, 29.21.180, 36.16.050, 36.16.070, 36.68.030, 36.68.040, 41.32.010, 41.32.420, 72.40.060–72.40.080 and 72.40.100.

28A.21.020 Changes in number of, boundaries—Initiating, hearings, considerations—Superintendent's duties. The state board of education, at any time it deems advisable or upon petition of any *educational service district board, may make changes in the number and boundaries of the *educational service districts, including an equitable adjustment and transfer of any and all property, assets, and liabilities among the *educational service districts whose boundaries and duties and responsibilities are increased and/or decreased by such changes, consistent with the purposes of RCW 28A.21.010. Prior to making any such changes, the state board shall hold at least one public hearing on such proposed action and shall consider any recommendations on such proposed action.

The state board in making any change in boundaries shall give consideration to, but not be limited by, the following factors: Size, population, topography, and climate of the proposed district.

The superintendent of public instruction shall furnish personnel, material, supplies, and information necessary to enable *educational service district boards and superintendents to consider the proposed changes. [1971 ex.s. c 282 § 2; 1969 ex.s. c 176 § 2. Formerly RCW 28.19.505.]

***Reviser's note:** "educational service district board" and "educational service districts" have been substituted herein for "intermediate school district board" and "intermediate school districts" pursuant to RCW 28A.21.010 and 28A.21.900.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.030 ESD board—Members—Number, from board-member districts—Board-member district boundaries, determination of, changes in. Except as otherwise provided in this section, in each educational service district there shall be an educational service district board consisting of seven members elected by the voters of the educational service district, one from each of seven educational service district board-member districts. Board-member districts in districts reorganized under RCW 28A.21.020, or as provided for in RCW 28A.21.035, as now or hereafter amended, and under this section, shall be initially determined by the state board of education. If a reorganization pursuant to RCW 28A.21.020 places the residence of a board member into another or newly created educational service district, such member shall serve on the board of the educational service district of residence until the next general school election at which time a new seven member board shall be elected. If the redrawing of board-member district boundaries pursuant to this chapter shall cause the resident board-member district of two or more board members to coincide, such board members shall continue to serve on the board until the next general school election at which time a new board shall be elected. The board-member districts shall be arranged so far as practicable on a basis of equal population, with consideration being given existing board members of existing educational service district boards. Each educational service district board member shall be elected by the registered voters of the respective board-member district. Beginning in 1971 and every ten years thereafter, educational service district boards shall review and, if necessary, shall change the boundaries of board-member districts so as to provide so far as practicable equal representation according to population of such board-member districts and to conform to school district boundary changes: *Provided*, That all board-member district boundaries, to the extent necessary to conform with this chapter, shall be redrawn for the purposes of the next general school election immediately following any reorganization pursuant to this chapter. Such district board, if failing to make the necessary changes prior to June 1 of the appropriate year, shall refer for settlement questions on board-member district boundaries to the state board of education, which, after a public hearing, shall decide such questions. [1975 1st ex.s. c 275 § 3; 1974 ex.s. c 75 § 1; 1971 ex.s. c 282 § 3; 1969 ex.s. c 176 § 3. Formerly RCW 28.19.510.]

Severability—1974 ex.s. c 75: "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 ex.s. c 75 § 24.] This applies to 28A.21.030, 28A.21.0301, 28A.21.0302, 28A.21.0303, 28A.21.0304, 28A.21.0305, 28A.21.0306, 28A.21.035, 28A.21.095, 28A.21.100, 28A.21.105, 28A.21.106, 28A.21.110, 28A.21.111, 28A.21.112, 28A.21.113, 28A.21.120, 28A.21.180, 28A.21.195 and to the repeal of RCW 28A.21.145, 28A.21.185 and 28A.21.190.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

City, town and district general elections—Exceptions—Special elections: RCW 29.13.020.

County auditor designated supervisor of certain elections: RCW 29.04.020.

Notice of election—Certification of measures: RCW 29.27.080.

28A.21.0302 ESD board—Members—Elections, filing of candidacy, certification of names. Filing for candidacy for the educational service district board shall be with the county auditor of the headquarters county of the educational service district not more than sixty days nor less than forty-six days prior to the general school election, and the auditor shall certify the names of candidates to the officials conducting the elections in the board-member districts. [1975 1st ex.s. c 275 § 4; 1974 ex.s. c 75 § 3.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.0303 ESD board—Members—Terms. The term of office for each board member shall be four years and until a successor is duly elected and qualified. For the first election or an election following reorganization, board-member district positions numbered one, three, five, and seven in each educational service district shall be for a term of four years and positions numbered two, four, and six shall be for a term of two years. [1975 1st ex.s. c 275 § 5; 1974 ex.s. c 75 § 4.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.0304 ESD board—Members—Terms, when nine member board. Any educational service district board may elect by resolution of the board to increase the board member size to nine board members. In such case positions number eight and nine shall be filled at the next general school election, position numbered eight to be for a term of two years, position numbered nine to be for a term of four years. Thereafter the terms for such positions shall be for four years. [1975 1st ex.s. c 275 § 6; 1974 ex.s. c 75 § 5.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.0305 ESD board—Members—Terms, begin when—Vacancies, filling of. The term of every educational service district board member shall begin after the election returns have been certified, a certificate of election issued, and the oath of office taken. In the event of a vacancy in the board from any cause, such vacancy shall be filled by appointment of a person from the same board-member district by the educational service district board. In the event that there are more than three vacancies in a seven-member board or four vacancies in a nine-member board, the state board of education shall fill by appointment sufficient vacancies so that there shall be a quorum of the board serving. Each appointed board member shall serve until the next general school election, at which time there shall be elected a member to fill the unexpired term. [1975 1st ex.s. c 275 § 7; 1974 ex.s. c 75 § 6.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.0306 ESD board—Members—Restriction on other service. No person shall serve as an employee of a school district or as a member of a board of directors of a common school district or as a member of the state board of education and as a member of an educational service district board at the same time. [1975 1st ex.s. c 275 § 8; 1974 ex.s. c 75 § 7.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.035 ESD board—Return to seven member board. Any educational service district board which elects under RCW 28A.21.0304 to increase the size of the educational service district board from seven to nine members, after at least four years, may elect by resolution of the board to return to a membership of seven educational service board members. In such case the term of office of all existing educational service board members shall expire at the next general school election and seven educational service board members shall be elected in accordance with the provisions of RCW 28A.21.030, 28A.21.0301 through 28A.21.0303, 28A.21.0305 and 28A.21.0306. [1975 1st ex.s. c 275 § 9; 1974 ex.s. c 75 § 8; 1971 ex.s. c 282 § 4.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.037 ESD board—Vacation of board member position because of failure to attend meetings. Absence of any educational service district board member from four consecutive regular meetings of the board, unless excused on account of sickness or otherwise authorized by resolution of the board, shall be sufficient cause for the members of the educational service district board to declare by resolution that such board member position is vacated. [1975 1st ex.s. c 275 § 10; 1971 ex.s. c 282 § 5.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.040 School district to be entirely within single educational service district. Every school district must be included entirely within a single educational service district. If the boundaries of any school district within an educational service district are changed in any manner so as to extend the school district beyond the boundaries of that educational service district, the state board shall change the boundaries of the educational service districts so affected in a manner consistent with the purposes of RCW 28A.21.010 and this section. [1975 1st ex.s. c 275 § 11; 1971 ex.s. c 282 § 6; 1969 ex.s. c 176 § 4. Formerly RCW 28.19.515.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.050 ESD board—Members, qualification, oath, bond—Organization—Quorum. Every candidate for member of the educational service district

board shall be a registered voter and a resident of the board-member district for which such candidate files. On or before the date for taking office, every member shall make an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of such member's ability. The members of the board shall not be required to give bond unless so directed by the state board of education. At the first meeting after each general school election and after the qualification for office of the newly elected members, each educational service district board shall reorganize by electing a chairman and a vice chairman. A majority of all of the members of the board shall constitute a quorum. [1975 1st ex.s. c 275 § 12; 1971 ex.s. c 282 § 7; 1969 ex.s. c 176 § 5. Formerly RCW 28.19.520.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.060 ESD board—Reimbursement of members for expenses. The actual expenses of educational service board members in going to, returning from and attending meetings called or held pursuant to district business or while otherwise engaged in the performance of their duties under this chapter shall be paid up to the amounts provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended; all such claims shall be approved by the educational service district board and paid from the budget of the educational service district. [1975 1st ex.s. c 275 § 13; 1971 ex.s. c 282 § 8; 1969 ex.s. c 176 § 6. Formerly RCW 28.19.525.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.070 ESD superintendent—Appointment, term, salary, discharge. Every educational service district board shall appoint and set the salary of an educational service district superintendent who shall be employed by a written contract for a term to be fixed by the board but not to exceed four years, and who may be discharged for sufficient cause. [1975 1st ex.s. c 275 § 14; 1971 ex.s. c 282 § 9; 1970 ex.s. c 84 § 2; 1969 ex.s. c 176 § 7. Formerly RCW 28.19.530.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.080 ESD superintendent—Qualifications. To be eligible for appointment to the office of educational service district superintendent, in addition to any other requirements under other provisions of the law, a candidate must have a valid principal's or superintendent's credential of the state of Washington or meet other criteria specifically established by the state board of education as representing appropriate training and qualification for the office of educational service district

superintendent; but anyone serving as a legally qualified county or intermediate district superintendent or deputy county or intermediate district superintendent in the state of Washington on April 25, 1969 may be deemed qualified to hold the office of educational service district superintendent. [1975 1st ex.s. c 275 § 15; 1971 ex.s. c 282 § 10; 1969 ex.s. c 176 § 8. Formerly RCW 28.19.535.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.086 ESD board—Compliance with rules and regulations—Depository and distribution center—Cooperative service programs. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Comply with rules or regulations of the state board of education and the superintendent of public instruction.

(2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the service area of the educational service district.

(3) Establish cooperative service programs for school districts within the educational service district: *Provided*, That on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district. [1975 1st ex.s. c 275 § 16; 1971 ex.s. c 282 § 11.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.088 ESD board—Teachers' institutes, directors' meetings—Cooperation with state supervisors—Apportioning funds—Certification of data. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) If the district board deems necessary, hold each year one or more teachers' institutes as provided for in RCW 28A.71.100, as now or hereafter amended, and one or more school directors' meetings.

(2) Cooperate with the state supervisor of special aid for handicapped children as provided in chapter 28A.13 RCW and the state supervisor of recreation as provided in chapter 28A.14 RCW.

(3) Apportion such school funds other than state funds as otherwise authorized by law in a manner not in conflict with state or federal law or rules and regulations relating to the distribution and apportionment of such school funds.

(4) Certify statistical data as basis for apportionment purposes to county and state officials as provided in chapter 28A.44 RCW.

(5) Perform such other duties as may be prescribed by law or rule or regulation of the state board of education and/or the superintendent of public instruction as provided in RCW 28A.03.028 and 28A.04.145. [1975 1st ex.s. c 275 § 17; 1971 ex.s. c 282 § 12.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.090 ESD board—Circulating libraries—District budgets—Meetings—Personnel approval—Employee bonds—School district boundary transcripts—Acquisition and disposal of property—Bylaws, regulations—Contractual authority. In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Advise with and pass upon the recommendations of the educational service district superintendent in the preparation of rules and regulations for the circulating libraries established pursuant to RCW 27.16.010.

(2) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter.

(3) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the chairman or a majority of the board.

(4) Approve the selection of educational service district personnel and clerical staff as provided in RCW 28A.21.100, as now or hereafter amended.

(5) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding.

(6) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district.

(7) Acquire by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes: *Provided*, That no real property shall be acquired or alienated without the prior approval of the state board of education.

(8) Adopt such bylaws and rules and regulations for its own operation as it deems necessary or appropriate.

(9) Enter into contracts, including contracts with common and educational service districts for the joint financing of cooperative service programs conducted pursuant to RCW 28A.21.086(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts. [1975 1st ex.s. c 275 § 18; 1971 ex.s. c 282 § 13; 1971 c 53 § 1; 1969 ex.s. c 176 § 9. Formerly RCW 28.19.540.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—1971 c 53: See note following RCW 28A.57.260.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.092 ESD board—Payment of member expenses—Payment of dues into state-wide association of board members, restrictions. In addition to other powers and duties prescribed by law every educational service district board shall be authorized to:

(1) Pay the expenses of its members in accordance with law for attendance at state-wide meetings of educational service district board members.

(2) Pay dues from educational service district funds in an amount not to exceed one hundred dollars per board member per year for membership in a state-wide association of educational service district board members: *Provided*, That dues to such an association shall not be paid unless the formation of such an association, including its constitution and bylaws, is approved by a resolution passed by at least two-thirds of the educational service district boards within the state: *Provided further*, That such association if formed shall not employ any staff but shall contract either with the Washington state school directors' association or with the superintendent of public instruction for staff and informational services. [1975 1st ex.s. c 275 § 19; 1971 ex.s. c 282 § 14.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.095 ESD board—Delegation of powers and duties to superintendent. Each educational service district board, by written order filed in the headquarters office, may delegate to the educational service district superintendent any of the powers and duties vested in or imposed upon the board by law or rule or regulation of the state board of education and/or the superintendent of public instruction. Such delegated powers and duties shall not be in conflict with rules or regulations of the superintendent of public instruction or the state board of education and may be exercised by the educational service district superintendent in the name of the board. [1975 1st ex.s. c 275 § 20; 1974 ex.s. c 75 § 9; 1971 ex.s. c 282 § 15.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.100 Assistant superintendents and other personnel—Appointment, salaries, duties. The educational service district superintendent may appoint with the consent of the educational service district board assistant superintendents and such other professional personnel and clerical help as may be necessary to perform the work of the office at such salaries as may be determined by the educational service district board and shall pay such salaries out of the budget of the district. In the absence of the educational service district superintendent a designated assistant superintendent shall perform the duties of the office. The educational service district superintendent shall have the authority to appoint on an acting basis an assistant superintendent to perform any of the duties of the office. [1975 1st ex.s. c 275 § 21; 1974 ex.s. c 75 § 10; 1971 ex.s. c 282 § 16; 1969 ex.s. c 176 § 10. Formerly RCW 28.19.545.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.105 Certificated employees of ESD board and superintendent—Contracts of employment—Nonrenewal of contracts. No certificated employee of an educational service district superintendent or board shall be employed except by written contract, which shall be in conformity with the laws of this state. Every such contract shall be made in duplicate, one copy of which shall be retained by the educational service district superintendent and the other shall be delivered to the employee.

Every educational service district superintendent or board determining that there is probable cause or causes that the employment contract of a certificated employee thereof is not to be renewed for the next ensuing term shall be notified in writing on or before April 15th preceding the commencement of such term of that determination, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for the review of the decision of the superintendent or board and appeal therefrom shall be as prescribed for nonrenewal cases of teachers in RCW 28A.58.450 through 28A.58.515, 28A.67.070 and 28A.88.010 and in any amendments hereafter made thereto. Appeals may be filed in the superior court of any county in the *educational service district. [1975 1st ex.s. c 275 § 22; 1974 ex.s. c 75 § 11; 1971 c 48 § 6; 1969 ex.s. c 34 § 19. Like section formerly RCW 28.19.601.]

***Reviser's note:** "educational service district" is herein substituted for "intermediate school district", pursuant to RCW 28A.21.010 and 28A.21.900.

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.21.106 Certificated employees of ESD board and superintendent—Adverse change in contract status—Notice—Probable cause—Review—Appeal. Every educational service district superintendent or board determining that there is probable cause or causes for a certificated employee of that superintendent or board to be discharged or otherwise adversely affected in his contract status shall notify such employee in writing of its decision, which notice shall specify the cause or causes for such action. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for review of the decision of the superintendent or board and appeal therefrom shall be as prescribed in discharge cases of teachers in RCW

28A.58.450 through 28A.58.515, 28A.67.070 and 28A.88.010 and in any amendments hereafter made thereto. The board and the educational service district superintendent, respectively, shall have the duties of the boards of directors and clerks of school districts in RCW 28A.58.450 through 28A.58.515, 28A.67.070 and 28A.88.010 and in any amendments hereafter made thereto. Appeals may be filed in the superior court of any county in the educational service district. [1975 1st ex.s. c 275 § 23; 1974 ex.s. c 75 § 12; 1971 c 48 § 7; 1969 ex.s. c 34 § 20. Like section formerly RCW 28.19.602.]

Reviser's note: Duties of clerks of school districts referred to above have been transferred to chairman of the school board under later enactments; see RCW 28A.58.450 and 28A.58.460.

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.21.110 ESD superintendent's powers and duties—Generally. In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Serve as chief executive officer of the educational service district and secretary of the educational service district board.

(2) Visit the schools in the educational service district, counsel with directors and staff, and assist in every possible way to advance the educational interest in the educational service district. [1975 1st ex.s. c 275 § 24; 1974 ex.s. c 75 § 13; 1972 ex.s. c 3 § 1; 1971 ex.s. c 282 § 17; 1969 ex.s. c 176 § 11. Formerly RCW 28.19.550.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.080.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.111 ESD superintendent's powers and duties—Records and reports. In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Perform such record keeping, including such annual reports as may be required, and liaison and informational services to local school districts and the superintendent of public instruction as required by rule or regulation of the superintendent of public instruction or state board of education: *Provided*, That the superintendent of public instruction and the state board of education may require some or all of the school districts to report information directly when such reporting procedures are deemed desirable or feasible.

(2) Keep records of official acts of the educational service district board and superintendents in accordance with RCW 28A.21.120, as now or hereafter amended.

(3) Preserve carefully all reports of school officers and teachers and deliver to the successor of the office all records, books, documents, and papers belonging to the office either personally or through a personal representative, taking a receipt for the same, which shall be filed in the office of the county auditor in the county where

the office is located. [1975 1st ex.s. c 275 § 25; 1974 ex.s. c 75 § 14.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.112 ESD superintendent's powers and duties—Oaths and affirmations. In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Administer oaths and affirmations to school directors, teachers, and other persons on official matters connected with or relating to schools, when appropriate, but not make or collect any charge or fee for so doing.

(2) Require the oath of office of all school district officers be filed as provided in RCW 28A.57.322 and furnish a directory of all such officers to the county auditor and to the county treasurer of the county in which the school district is located as soon as such information can be obtained after the election or appointment of such officers is determined and their oaths placed on file. [1975 1st ex.s. c 275 § 26; 1974 ex.s. c 75 § 15.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.113 ESD superintendent's powers and duties—School district budgets—Compulsory attendance—Aid by nonhigh districts—School district organization. In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Assist the school districts in preparation of their budgets as provided in chapter 28A.65 RCW.

(2) Enforce the provisions of the compulsory attendance law as provided in chapter 28A.27 RCW.

(3) Perform duties relating to capital fund aid by nonhigh districts as provided in chapter 28A.56 RCW.

(4) Carry out the duties and issue orders creating new school districts and transfers of territory as provided in chapter 28A.57 RCW.

(5) Perform all other duties prescribed by law and the educational service district board. [1975 1st ex.s. c 275 § 27; 1974 ex.s. c 75 § 16.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.120 Headquarters office—County responsibilities, termination—Records transferred, state board duties. The educational service district board shall designate the headquarters office of the educational service district. The board of county commissioners in each county, when so requested by the educational service district board, in each year prior to July 1, 1979, shall provide the educational service district superintendent and employees with suitable quarters and office, which shall include heating, contents insurance, electricity, and custodial services, for the operations of the educational service district. Commencing July 1, 1979, educational service districts shall provide for their own office space, heating, contents insurance, electricity, and custodial services, which may be obtained through contracting with any board of county commissioners.

[1975 RCW Supp—p 232]

Official records of the educational service district board and superintendent, including each of the county superintendents abolished by chapter 176, Laws of 1969 ex. sess., shall be kept by the educational service district superintendent. Whenever the boundaries of any of the educational service districts are reorganized pursuant to RCW 28A.21.020, the state board of education shall supervise the transferral of such records so that each educational service district superintendent shall receive those records relating to school districts within the appropriate educational service district. [1975 1st ex.s. c 275 § 28; 1974 ex.s. c 75 § 17; 1971 ex.s. c 282 § 18; 1969 ex.s. c 176 § 12. Formerly RCW 28.19.555.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.130 ESD superintendents, employees—Traveling expenses and subsistence—Advance payment. For all actual and necessary travel in the performance of official duties and while in attendance upon meetings and conferences, each educational service district superintendent and employee shall be reimbursed for their actual traveling expenses and subsistence up to the amounts provided in RCW 43.03.050 and 43.03.060 as now or hereafter amended. All claims shall be approved by the educational service district board and paid from the funds budgeted by the district. Each educational service district superintendent and employee may be advanced sufficient sums to cover their anticipated expenses in accordance with rules and regulations promulgated by the state auditor and which shall substantially conform to the procedures provided in RCW 43.03.150 through 43.03.210. [1975 1st ex.s. c 275 § 29; 1971 ex.s. c 282 § 19; 1969 ex.s. c 176 § 13. Formerly RCW 28.19.560.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.135 Budgeting procedures for districts. The superintendent of public instruction by rule and regulation shall adopt budgeting procedures for educational service districts modeled after the statutory procedures for school districts as provided in chapter 28A.65 RCW. [1975 1st ex.s. c 275 § 30; 1971 ex.s. c 282 § 20.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.21.140 District budget—State funds, allocation of—District general expense fund—Created, deposits, expenditures. The superintendent of public instruction shall examine and revise the biennial budget request of each educational service district and shall fix the amount to be requested in state funds for the educational service district system from the legislature. Once funds have been appropriated by the legislature, the superintendent of public instruction shall fix the annual budget of each educational service district and

shall allocate quarterly the state's portion from funds appropriated for that purpose to the county treasurer of the headquarters county of the educational service district for deposit to the credit of the educational service district general expense fund.

In each educational service district, there shall be an educational service district general expense fund into which there shall be deposited such moneys as are allocated by the superintendent of public instruction under provisions of this chapter, and such moneys as are allocated from the county current expense funds, the county institute funds, the county circulating library funds and other funds of the educational service district, and such moneys shall be expended according to the method used by first or second class school districts, whichever is deemed most feasible by the educational service district board. No vouchers for warrants other than moneys being distributed to the school districts shall be approved for expenditures not budgeted by the educational service district board. [1975 1st ex.s. c 275 § 31; 1971 ex.s. c 282 § 22; 1969 ex.s. c 176 § 14. Formerly RCW 28.19.565.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.160 Funds combined into district general expense fund—Distribution formula when county part of more than one district—Distribution if change of district boundaries. All funds under the control of the office of each educational service district shall be combined into the educational service district general expense fund and deposited in the office of the county treasurer of the county in which the educational service district headquarters office is located. The superintendent of public instruction, by rule or regulation, shall provide by an established formula for the proper distribution of moneys received from the county current expense fund, the county institute fund, and the county circulating library fund in those counties which are a part of two or more educational service districts. In case the boundaries of any of the educational service districts are changed, the superintendent of public instruction shall order an equitable transfer of such funds from one educational service district to another which the superintendent of public instruction deems necessary to adjust for the increase and decrease in the operating costs of the respective districts for the balance of the fiscal year and shall certify to the county commissioners of the affected counties a new ratio for the appropriation of funds to the general expense funds of two or more educational service districts under RCW 28A.21.180, as now or hereafter amended. [1975 1st ex.s. c 275 § 32; 1971 ex.s. c 282 § 23; 1969 ex.s. c 176 § 16. Formerly RCW 28.19.575.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.170 District budget request—Procedure for approval. The biennial budget request of each educational service district shall be approved by the respective educational service district board and then forwarded to the superintendent of public instruction for revision and approval as provided in RCW 28A.21.140. [1975 1st ex.s. c 275 § 33; 1971 ex.s. c 282 § 21; 1969 ex.s. c 176 § 17. Formerly RCW 28.19.580.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.180 County funds to go into district general expense fund, minimum amount—Election costs—Services of county officials—Termination of county participation. The county commissioners of each county shall pay the election costs of educational service board elections held in any year prior to July 1, 1979, and shall pay each year from their county current expense fund to the educational service district general expense fund of the educational service district or districts in which the county is located not less than the amount which the county appropriated to the budget of the county superintendent and/or intermediate district or districts and/or intermediate school district or districts for the year 1969: *Provided*, That after December 31, 1976, the county commissioners of each county shall in each succeeding calendar year reduce their respective appropriations to the educational service districts in level increments of one-fourth the 1969 appropriated amounts. In addition the county commissioners of each county shall pay for services other than those of the county treasurer and auditor provided to any county and/or intermediate district or districts and/or intermediate school district or districts for the year 1969 but not included in the 1969 budget of any county and/or intermediate district or districts and/or intermediate school district or districts: *Provided*, That after June 30, 1979, the county commissioners of each county may terminate such services or charge the educational service districts for such services. The county treasurers and auditors shall provide their services without charge to the educational service districts. [1975 1st ex.s. c 275 § 34; 1974 ex.s. c 75 § 20; 1971 ex.s. c 282 § 24; 1969 ex.s. c 176 § 18. Formerly RCW 28.19.585.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.195 Legal services. The superintendent of public instruction shall be responsible for the provision of legal services to all educational service districts: *Provided*, That any educational service district board may contract with any county for the legal services of its prosecuting attorney. [1975 1st ex.s. c 275 § 35; 1974 ex.s. c 75 § 23.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

28A.21.200 Ex officio treasurer of district. The county treasurer of the county in which the headquarters office of the educational service district is located shall serve as the ex officio treasurer of the district. He shall keep all funds and moneys of the district separate and apart from all other funds and moneys in his custody and shall disburse such moneys only upon proper order of the educational service district board or superintendent. [1975 1st ex.s. c 275 § 36; 1969 ex.s. c 176 § 21. Formerly RCW 28.19.595.]

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.220 Local school district superintendents to advise board and superintendent. The superintendents of all local school districts within an educational service district shall serve in an advisory capacity to the educational service district board and superintendent in matters pertaining to budgets, programs, policy, and staff. [1975 1st ex.s. c 275 § 37; 1971 ex.s. c 282 § 28; 1969 ex.s. c 176 § 23. Formerly RCW 28.19.605.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.21.300 State supported environmental study centers—District operation. All powers, duties and functions of any school district relating to the operation of a state supported environmental study center shall be transferred to that educational service district which the superintendent of public instruction deems will be in the best interest of the public for the utilization of such a center; any moneys heretofore appropriated for any such center purposes shall be expended for this purpose only upon the prior approval of the superintendent of public instruction: *Provided*, That subsequent requests for state supported environmental education centers' activities shall be incorporated into the appropriate educational service districts' future budget requests, subject to usual provisions of law, and rules and regulations promulgated for the implementation thereof. All employees of any state supported environmental study center on July 1, 1974 who are classified employees under chapter 41.06 RCW, the state civil service law, shall be assigned and transferred to the respective intermediate school district, after September 8, 1975 to be known as educational service district, operating such a state supported environmental center to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing the state civil service law. [1975 1st ex.s. c 275 § 38; 1974 ex.s. c 91 § 5.]

Severability—Emergency—Effective date—1974 ex.s. c 91: See notes following RCW 70.82.010.

28A.21.900 Phrases to have meanings ascribed herein. It is the intent of the legislature that after September 8, 1975 where the words "intermediate school district", "intermediate school district board" and "intermediate

school district superintendent" are used in any bill enacted by the legislature or found within the code of the state of Washington they shall mean the "educational service district", educational service district board" and "educational service district superintendent", respectively. [1975 1st ex.s. c 275 § 155.]

Chapter 28A.24 SCHOOL TRANSPORTATION

Sections

- 28A.24.080 Transportation routes—Procedure to establish—School district transportation commission, composition.
28A.24.150 Safe walk-ways in lieu of bus route or bus run—Reimbursement of costs, when.

Beneficial interests in contracts prohibited—Second and third class school districts—Exception: RCW 28A.60.355.

28A.24.080 Transportation routes—Procedure to establish—School district transportation commission, composition. School district transportation routes for purposes of state reimbursement of transportation costs shall be recommended by the school district transportation commission in each school district and approved by the superintendent of public instruction pursuant to rules and regulations promulgated by the superintendent for that purpose. The commission shall be appointed by the superintendent of public instruction and shall consist of (1) a representative of the local board of directors, (2) a representative of the superintendent of public instruction, and (3) a representative of the educational service district board. [1975 1st ex.s. c 275 § 54; 1971 ex.s. c 282 § 32; 1969 ex.s. c 176 § 104; 1969 ex.s. c 223 § 28A.24.080. Prior: 1965 ex.s. c 154 § 7. Formerly RCW 28.24.080.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—Rights preserved—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Reimbursement for transportation costs—Method: RCW 28A.41.160.

28A.24.150 Safe walk-ways in lieu of bus route or bus run—Reimbursement of costs, when. Whenever a safe walk-way would result in eliminating a bus route or bus run through the shortening of the walking distance of pupils, or would provide a safe route for pupils walking to school and thus eliminate the need for bus transportation, the local board of directors of any school district, upon approval of the school district transportation commission, is authorized to acquire through purchase, lease, condemnation or otherwise any interest in real property necessary for such purpose and to provide for construction upon and improvement of such property or other property to provide a safe walk-way for pupils walking to and from school.

If the state superintendent of public instruction finds that the acquisition and/or construction of such a safe walk-way would result over a fifteen year period in a financial saving to the state and school district involved, through a reduction in said transportation costs for said fifteen year period, then he shall reimburse any school

district for its costs incurred in providing or participating in providing such approved safe walk-ways for pupils on the same basis that school districts are reimbursed for transportation costs pursuant to RCW 28A.41.160. [1975 1st ex.s. c 275 § 55; 1971 c 48 § 8; 1970 ex.s. c 20 § 2; 1969 ex.s. c 223 § 28A.24.150. Prior: 1967 ex.s. c 17 § 1. Formerly RCW 28.24.150.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.27

COMPULSORY SCHOOL ATTENDANCE

Sections

- 28A.27.040 Attendance enforcement officers—Authority—Record and report.
 28A.27.080 Annual notice of chapter provisions by ESD superintendent—Superintendent's report—Penalty for false or failure to report.
 28A.27.102 Penalty for nonperformance of duty—Disposition of fines.

Rules and regulations accepting national guard high school career training: RCW 28A.04.133.

28A.27.040 Attendance enforcement officers—Authority—Record and report. To aid in the enforcement of RCW 28A.27.010 through 28A.27.130, attendance officers shall be appointed and employed as follows: In incorporated city districts the board of directors shall annually appoint one or more attendance officers. In all other districts the educational service district superintendent shall appoint one or more attendance officers or may act as such himself.

The compensation of attendance officer in city districts shall be fixed and paid by the board appointing him. The compensation of attendance officers when appointed by the educational service district superintendents shall be paid by the respective districts. An educational service district superintendent shall receive no extra compensation if acting as attendance officer.

Any sheriff, constable, city marshal or regularly appointed policeman may be appointed attendance officer.

The attendance officer shall be vested with police powers, the authority to make arrests and serve all legal processes contemplated by RCW 28A.27.010 through 28A.27.130, and shall have authority to enter all places in which children may be employed, for the purpose of making such investigations as may be necessary for the enforcement of RCW 28A.27.010 through 28A.27.130. The attendance officer is authorized to take into custody the person of any child eight years of age and not over fourteen years of age, who may be a truant from school, and to conduct such child to his parents, for investigation and explanation, or to the school which he should properly attend. The attendance officer shall institute proceedings against any officer, parent, guardian, person, company or corporation violating any provisions of RCW 28A.27.010 through 28A.27.130, and shall otherwise discharge the duties prescribed in RCW 28A.27.010 through 28A.27.130, and shall perform such other services as the educational service district superintendent or the superintendent of any school or its board of directors may deem necessary.

The attendance officer shall keep a record of his transactions for the inspection and information of any school district board of directors, the educational service district superintendent or the city superintendent, and shall make a detailed report to the city superintendent or the educational service district superintendent as often as the same may be required. [1975 1st ex.s. c 275 § 56; 1971 c 48 § 9; 1969 ex.s. c 176 § 105; 1969 ex.s. c 223 § 28A.27.040. Prior: 1909 c 97 p 365 § 4; RRS § 5075; prior: 1907 c 231 § 4; 1905 c 162 § 4. Formerly RCW 28.27.040, 28.27.050 and 28.27.060.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.27.080 Annual notice of chapter provisions by ESD superintendent—Superintendent's report—Penalty for false or failure to report. The educational service district superintendent, on or before the fifteenth day of August of each year, by printed circular or otherwise, shall call the attention of all school district officials to the provisions of RCW 28A.27.010 through 28A.27.130, and to the penalties prescribed for the violation of its provisions, and he shall require those officials of the school district which he shall designate to make a report annually hereafter, verified by affidavit, stating whether or not the provisions of RCW 28A.27.010 through 28A.27.130 have been faithfully complied with in his district. Such reports shall be made upon forms to be furnished by the superintendent of public instruction and shall be transmitted to the educational service district superintendent at such time as the educational service district superintendent shall determine, after notice thereof. Any school district official who shall knowingly or wilfully make a false report relating to the enforcement of the provisions of RCW 28A.27.010 through 28A.27.130 or fail to report as herein provided shall be deemed guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction shall be fined not less than twenty-five dollars nor more than one hundred dollars; and any school district official who shall refuse or neglect to make the report required in this section, shall be personally liable to his district for any loss which it may sustain because of such neglect or refusal to report. [1975 1st ex.s. c 275 § 57; 1969 ex.s. c 176 § 106; 1969 ex.s. c 223 § 28A.27.080. Prior: 1909 c 97 p 367 § 9; RRS § 5080; prior: 1907 c 231 § 9. Formerly RCW 28.27.080 and 28.87.040.]

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.27.102 Penalty for nonperformance of duty—Disposition of fines. Any school district superintendent, teacher or attendance officer who shall fail or refuse to perform the duties prescribed by RCW 28A.27.010 through 28A.27.130 shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not less than twenty nor more than one hundred dollars: *Provided*, That in case of a school district employee, such fine shall be paid to the appropriate county treasurer and by him placed to the credit of the school district in

which said employee is employed, and in case of all other officers such fine shall be paid to the county treasurer of the county in which the educational service district headquarters is located and by him placed to the credit of the general school fund of the educational service district: *Provided*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1975 1st ex.s. c 275 § 58; 1970 ex.s. c 15 § 14. Prior: 1969 ex.s. c 199 § 53; 1969 ex.s. c 176 § 107; 1969 ex.s. c 223 § 28A.27.102; prior: 1909 p 368 § 10; RRS § 5081; 1907 c 231 § 10; 1905 c 162 § 10; 1903 c 48 § 7. Formerly RCW 28.27.102, 28.27.100, part.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Chapter 28A.31 HEALTH MEASURES

Learning/language disabilities, screening for: RCW 28A.03.300–28A.03.320.

Chapter 28A.35 KINDERGARTENS

Sections

28A.35.030 Maintained from general fund—Attendance, reports, enumeration.

Learning/language disabilities, screening for: RCW 28A.03.300–28A.03.320.

28A.35.030 Maintained from general fund—Attendance, reports, enumeration. The cost of establishing and maintaining such kindergartens shall be paid from the general school fund of the district. It shall be the duty of teachers, school district superintendents and educational service district superintendents to respectively report as other school attendance is reported, the attendance of all children five years of age or over at such kindergartens, and it shall thereupon be the duty of the superintendent of public instruction to make apportionment to the proper counties of the current state school fund and of the respective educational service district superintendents to apportion to the districts entitled thereto such funds as are apportioned by the legislature in accordance with the provisions of chapter 28A.41 RCW. It shall be the duty of all school district superintendents to include children four years of age and over in the enumeration of the annual school census. [1975 1st ex.s. c 275 § 59; 1971 c 48 § 13; 1969 ex.s. c 223 § 28A.35.030. Prior: 1917 c 127 § 1, part; RRS § 5098, part. Cf. 1911 c 82 § 1; 1909 c 97 p 371 subc. 19; 1897 c 118 § 181. Formerly RCW 28.35.030, 28.35.050 and 28.35.060.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.41

CURRENT STATE SCHOOL FUND—SCHOOL DISTRICT REIMBURSEMENT PROGRAMS

Sections

28A.41.130 Annual distribution of funds according to weighted enrollment. (Effective until July 1, 1976.)

28A.41.130 Annual distribution of funds according to weighted enrollment—Pupil/teacher ratio standard. (Effective July 1, 1976.)

28A.41.160 Reimbursement for transportation costs—Method.

Investment of funds, including funds received by ESD—Authority—Procedures: RCW 28A.58.430.

28A.41.130 Annual distribution of funds according to weighted enrollment. (Effective until July 1, 1976.) From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.48.010 to each school district of the state operating a program approved by the state board of education an amount which, when combined with the following revenues, will constitute an equal guarantee in dollars for each weighted pupil enrolled, based upon one full school year of one hundred eighty days, except that for kindergartens one full school year may be ninety days as provided by RCW 28A.58.180:

(1) The receipts from the one percent tax on real estate transactions which may be imposed pursuant to chapter 28A.45 RCW: *Provided*, That the funds otherwise distributable under this section to any school district in any county which does not impose a tax in the full amount authorized by chapter 28A.45 RCW shall be reduced by five percent; and

(2) One hundred percent of the receipts from public utility district funds distributed to school districts pursuant to RCW 54.28.090; and

(3) One hundred percent of the receipts from federal forest revenues distributed to school districts pursuant to RCW 36.33.110; and

(4) One hundred percent of such other available revenues as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support.

Notwithstanding any other provision of this chapter, the state shall guarantee to school districts an amount of money from state and local funds, not less than ninety-five percent of the average amount per enrolled student, excluding special levies, which any such district realized from state and local funds during the preceding three school years. [1973 2nd ex.s. c 4 § 1; 1973 1st ex.s. c 195 § 9; 1973 c 46 § 2. See also 1973 1st ex.s. c 195 §§ 136, 137, 138 and 139. Prior: 1972 ex.s. c 124 § 1; 1972 ex.s. c 105 § 2; 1971 ex.s. c 294 § 19; 1969 c 138 § 2; 1969 ex.s. c 223 § 28A.41.130; prior: 1967 ex.s. c 140 § 3; 1965 ex.s. c 171 § 1; 1965 ex.s. c 154 § 2; prior: (i) 1949 c 212 § 1, part; 1945 c 141 § 4, part; 1923 c 96 § 1, part; 1911 c 118 § 1, part; 1909 c 97 p 312 §§ 7–10, part; Rem. Supp. 1949 § 4940–4, part. (ii) 1949 c 212 § 2, part; 1945 c 141 § 5, part; 1909 c 97 p 312 §§ 7–10, part; Rem. Supp. 1949 § 4940–5, part. Formerly RCW 28.41.130.]

Emergency and effective dates—1973 2nd ex.s. c 4: See notes following RCW 84.52.043.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Effective date—Severability—1972 ex.s. c 124: See notes following RCW 28A.44.080.

Effective date—Severability—1972 ex.s. c 105: See notes following RCW 28A.35.010.

28A.41.130 Annual distribution of funds according to weighted enrollment—Pupil/teacher ratio standard. (Effective July 1, 1976.) From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW 28A.48-.010 to each school district of the state operating a program approved by the state board of education an amount which, when combined with the following revenues, will constitute an equal guarantee in dollars for each weighted pupil enrolled, based upon one full school year of one hundred eighty days, except that for kindergartens one full school year may be ninety days as provided by RCW 28A.58.180:

(1) The receipts from the one percent tax on real estate transactions which may be imposed pursuant to chapter 28A.45 RCW: *Provided*, That the funds otherwise distributable under this section to any school district in any county which does not impose a tax in the full amount authorized by chapter 28A.45 RCW shall be reduced by five percent; and

(2) One hundred percent of the receipts from public utility district funds distributed to school districts pursuant to RCW 54.28.090; and

(3) One hundred percent of the receipts from federal forest revenues distributed to school districts pursuant to RCW 36.33.110; and

(4) One hundred percent of such other available revenues as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support.

Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of pupils per classroom teachers in grades kindergarten through three is not greater than the ratio of pupils per classroom teacher in grades four and above for such district: *Provided*, That for the purposes of this section, "classroom teacher" shall be defined as a certificated employee whose primary duty is the daily educational instruction of pupils: *Provided further*, That the state board of education shall adopt rules and regulations to insure compliance with the pupil/teacher ratio provisions of this section, and such rules and regulations shall allow for exemptions for those special programs and/or school districts which may be deemed unable to practicably meet the pupil/teacher ratio requirements of this section by virtue of a small number of pupils.

Notwithstanding any other provision of this chapter, the state shall guarantee to school districts an amount of money from state and local funds, not less than ninety-five percent of the average amount per enrolled student, excluding special levies, which any such district realized from state and local funds during the preceding three school years. [1975 1st ex.s. c 211 § 1; 1973 2nd ex.s. c 4 § 1; 1973 1st ex.s. c 195 § 9; 1973 c 46 § 2. See

also 1973 1st ex.s. c 195 §§ 136, 137, 138 and 139. Prior: 1972 ex.s. c 124 § 1; 1972 ex.s. c 105 § 2; 1971 ex.s. c 294 § 19; 1969 c 138 § 2; 1969 ex.s. c 223 § 28A.41.130; prior: 1967 ex.s. c 140 § 3; 1965 ex.s. c 171 § 1; 1965 ex.s. c 154 § 2; prior: (i) 1949 c 212 § 1, part; 1945 c 141 § 4, part; 1923 c 96 § 1, part; 1911 c 118 § 1, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-4, part. (ii) 1949 c 212 § 2, part; 1945 c 141 § 5, part; 1909 c 97 p 312 §§ 7-10, part; Rem. Supp. 1949 § 4940-5, part. Formerly RCW 28.41.130.]

Effective date—1975 1st ex.s. c 211: "This act shall take effect July 1, 1976." [1975 1st ex.s. c 211 § 2.] This applies to RCW 28A.41-.130 as amended by 1975 1st ex.s. c 211 § 1.

Emergency and effective dates—1973 2nd ex.s. c 4: See notes following RCW 84.52.043.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Effective date—Severability—1972 ex.s. c 124: See notes following RCW 28A.44.080.

Effective date—Severability—1972 ex.s. c 105: See notes following RCW 28A.35.010.

28A.41.160 Reimbursement for transportation costs—Method. Reimbursement for transportation costs shall be in addition to state assistance based upon weighted enrollment. Transportation costs shall be reimbursed as follows:

(1) Operational reimbursement shall be limited to ninety percent of the service costs on routes recommended by the educational service district transportation commission, and as approved by the state superintendent, or shall be limited to ninety percent of the average state cost per vehicle mile for the class of vehicle approved for operation as determined by the state superintendent, whichever is the smaller; and

(2) Costs of acquisition of approved transportation equipment shall be limited to ninety percent to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: *Provided*, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be held within the general fund exclusively for the future purpose of approved transportation equipment and major transportation equipment repairs consistent with rules and regulations authorized and promulgated under RCW 28A.41.170, 28A.65.050, and 28A.65.180. [1975 1st ex.s. c 275 § 60; 1972 ex.s. c 85 § 1; 1971 c 48 § 14; 1969 ex.s. c 223 § 28A.41.160. Prior: 1965 ex.s. c 154 § 5. Formerly RCW 28.41.160.]

Severability—1971 c 48: See note following RCW 28A.04.040.
School district transportation commission: RCW 28A.24.080.

Chapter 28A.44

BASIS OF APPORTIONMENT AT COUNTY LEVEL—COUNTY HIGH SCHOOL LEVY AGAINST NONHIGH SCHOOL DISTRICTS

Sections

- 28A.44.060 List of high school districts certified by state board.
- 28A.44.070 List of high school districts certified to county officers.
- 28A.44.080 School superintendent's report of nonresident pupils and educating costs.
- 28A.44.085 ESD board to certify claims against nonhigh districts to county commissioners—Determination of amounts.

28A.44.090 Certificate to county treasurer by ESD board of amount due.

28A.44.100 Transfer of funds by county treasurer.

28A.44.060 List of high school districts certified by state board. The state board of education shall provide each educational service district board in the state with a copy of the rules and requirements for the classification of districts and, on or before the first day of July of each year, shall certify to every educational service district board in the state a complete list of all high school districts in the district. [1975 1st ex.s. c 275 § 61; 1971 ex.s. c 282 § 34; 1971 c 48 § 16; 1969 ex.s. c 223 § 28A.44.060. Prior: 1917 c 21 § 3; RRS § 4712. Formerly RCW 28.44.060.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.44.070 List of high school districts certified to county officers. Each educational service district superintendent, on or before the first day of September, shall certify to the appropriate county assessors, the county treasurers, the county auditors, and the boards of county commissioners, a complete list of all high school districts and all nonhigh school districts in the counties within the educational service district. [1975 1st ex.s. c 275 § 62; 1971 ex.s. c 282 § 35; 1971 c 48 § 17; 1969 ex.s. c 223 § 28A.44.070. Prior: 1917 c 21 § 4; RRS § 4713. Formerly RCW 28.44.070.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.44.080 School superintendent's report of nonresident pupils and educating costs. The superintendent of every high school district shall certify under oath, as a part of an annual report to the educational service district board to be made on or before the fifteenth day of July as required by law, the following facts as nearly as the same can be ascertained:

(1) Name, post office address, county, and resident school district of each nonresident high school pupil who is not a resident of another high school district and is enrolled in the high school, or high schools, of the district during the school year, with the enrollment date and departure date of each such nonresident pupil.

(2) The cost per weighted pupil of educating high school pupils for the school year in his district. For ascertaining such cost the following items of high school expenditure shall be used: Salaries of all high school teachers, supervisors, principals, special instructors, superintendent and assistants, janitors, clerks, and secretaries, stenographers, and all other employees; fuel, light, water, power, telephones, textbooks, office expenses, janitors' supplies, freight, express, drayage, rents for high school purposes, upkeep of grounds, upkeep of shops and laboratories, all materials used in instruction, insurance, current ordinary repairs of every nature, inspection, promotion of health, and such other current expenditures as may be necessary to efficient operation of the high school, or high schools. Expenditures for

real estate, construction of buildings, and for other permanent improvements and fixtures shall not be included in estimating high school expenditures for the purposes of this section. When any item, as a necessary result of organization, covers both grade and high school work, it shall be prorated, as nearly as practicable, by the high school district superintendent. [1975 1st ex.s. c 275 § 63; 1972 ex.s. c 124 § 3; 1971 ex.s. c 282 § 36; 1971 c 48 § 18; 1969 ex.s. c 223 § 28A.44.080. Prior: 1917 c 21 § 5; RRS § 4714. Formerly RCW 28.44.080.]

Effective date—1972 ex.s. c 124: "This 1972 amendatory act is necessary for the immediate preservation of the public peace, health and safety and the support of the state government and its existing public institutions, and sections 2, 3, 4, 6, 7 and 11 shall take effect immediately; sections 1, 8, 9 and 10 hereof shall take effect July 1, 1973; and section 5 hereof shall take effect July 1, 1974." [1972 ex.s. c 124 § 12.] Sections 2, 3, 4, 6, 7 and 11 are codified as RCW 28A.44.085, 28A.44.080, 28A.44.090, 28A.44.110, 28A.44.120 and 28A.44.130, respectively, and declared effective immediately; sections 1, 8 and 10 are codified as RCW 28A.41.130, 84.52.050 and 28A.48.110, respectively, and declared effective July 1, 1973; section 9 is the repeal of RCW 28A.44.050 and declared effective July 1, 1973; section 5 is codified as RCW 28A.44.100 and declared effective July 1, 1974.

Severability—1972 ex.s. c 124: "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 124 § 13.] This applies to RCW 28A.41.130, the repeal of RCW 28A.44.050, 28A.44.080, 28A.44.085, 28A.44.090, 28A.44.100, 28A.44.110, 28A.44.120, 28A.44.130, 28A.48.110 and 84.52.050.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.44.085 ESD board to certify claims against non-high districts to county commissioners—Determination of amounts. The educational service district board, after verifying such reports as provided in RCW 28A.44.080 as now or hereafter amended, shall certify, on or before the fifteenth day of August each year to the appropriate county commissioners, the amount of claims which any high school district in its educational service district may have under the provisions of RCW 28A.44.045 through 28A.44.100 as now or hereafter amended against any nonhigh district for the cost of educating nonresident high school pupils of such district. In fixing the amount of any such claim by a high school district for educating nonresident high school pupils from such nonhigh districts the educational service district board shall determine the net difference between the cost of educating high school pupils in the given high school district per weighted pupil enrolled for the preceding year and the total state guarantee, including the equal guarantee provided for in *section 1 of this 1972 amendatory act, per weighted secondary pupil enrolled in such high school district for the preceding year, less any funds received by the high school district pursuant to Title 20, sections 236 through 244, United States Code, for any nonresident high school pupils educated in the high school district for such preceding year. Such amount, when certified as provided in this section, shall constitute a valid claim against the appropriate nonhigh district. [1975 1st ex.s. c 275 § 64; 1972 ex.s. c 124 § 2.]

***Reviser's note:** "section 1 of this 1972 amendatory act" refers to RCW 28A.41.130 as amended by 1972 ex.s. c 124 § 1.

Effective date—Severability—1972 ex.s. c 124: See notes following RCW 28A.44.080.

28A.44.090 Certificate to county treasurer by ESD board of amount due. The educational service district board, on or before the first day of September, shall certify to the appropriate county treasurer the amounts due to each high school district in the educational service district from nonhigh school districts for educating pupils from such nonhigh school districts, as certified by the educational service district board to the appropriate county commissioners under RCW 28A.44.085. [1975 1st ex.s. c 275 § 65; 1972 ex.s. c 124 § 4; 1971 ex.s. c 282 § 37; 1971 c 48 § 19; 1969 ex.s. c 223 § 28A.44.090. Prior: 1917 c 21 § 7; RRS § 4716. Formerly RCW 28.44.090.]

Effective date—Severability—1972 ex.s. c 124: See notes following RCW 28A.44.080.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.44.100 Transfer of funds by county treasurer. At the time of apportioning funds to school districts the county treasurer shall transfer to the credit of each high school district the amount due such district from the nonhigh school districts as certified by the educational service district board. The county treasurer, at the same time, shall transfer to the credit of the high school districts of other counties such amounts as may be due the high school districts of such other county as certified to by the appropriate educational service district boards acting under RCW 28A.44.090. [1975 1st ex.s. c 275 § 66; 1972 ex.s. c 124 § 5; 1971 ex.s. c 282 § 38; 1971 c 48 § 20; 1969 ex.s. c 223 § 28A.44.100. Prior: 1917 c 21 § 8; RRS § 4717. Formerly RCW 28.44.100.]

Effective date—Severability—1972 ex.s. c 124: See notes following RCW 28A.44.080.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.45 EXCISE TAX ON REAL ESTATE SALES

Sections

28A.45.050 Levy of tax—Rate—Disposition of proceeds.

28A.45.050 Levy of tax—Rate—Disposition of proceeds. The county commissioners of any county are authorized by ordinance to levy an excise tax upon sales of real estate not exceeding one percent of the selling price. The rate of the levy shall be determined annually by the commissioners. The proceeds of the tax provided for in this chapter shall be placed in the county school fund and shall be used exclusively for the support of the common schools: *Provided*, That one percent of the proceeds of the tax provided for herein may be placed in the current expense fund of the county: *Provided*, That each *educational service district superintendent shall certify each month the distribution of the real estate excise tax from the county school fund, for each county whose seat of government is within the

*educational service district, to the general fund of each school district in the county: *Provided further*, That when a local school district board of directors, by properly executed resolution, instructs that the distribution in whole or part be credited to the building fund and/or bond interest and redemption fund of the local school district, the *educational service district superintendent shall certify the distribution in accordance with such resolution: *And provided further*, That such certification of distribution to each school district in the county shall be in proportion (using the most recent data) to the number of weighted students enrolled in each district to the number of weighted students in the county. [1975 1st ex.s. c 135 § 1; 1969 ex.s. c 223 § 28A.45.050. Prior: 1953 c 94 § 2; 1951 1st ex.s. c 11 § 2. Formerly RCW 28.45.050.]

***Reviser's note:** "educational service district" and "educational service district superintendent" are herein substituted for "intermediate school district" and "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Chapter 28A.47 SCHOOL PLANT FACILITIES AID—BOND ISSUES

Sections

28A.47.803 1969 appropriation for construction, modernization of school plant facilities—Basis of state aid for school plant.

28A.47.820 Board limited when prioritizes construction.

28A.47.803 1969 appropriation for construction, modernization of school plant facilities—Basis of state aid for school plant. Allocations to school districts of state funds provided by RCW 28A.47.800 through 28A.47.811 shall be made by the state board of education and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: *Provided*, That the total cost of the project shall be subject to review and approval by the state board of education.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per full time equivalent pupil divided by the ratio of the total state adjusted valuation per full time pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per full time equivalent pupil divided by the ratio of the total state adjusted valuation per full time pupil).

$$\text{Computed State Ratio} = \frac{\text{District adjusted 3+ valuation per full time equivalent pupil}}{\text{District adjusted 3+ valuation per full time equivalent pupil}} = \frac{\text{Total state ad-justed valuation per full time equivalent pupil}}{\text{Total state ad-justed valuation per full time equivalent pupil}} = \text{\% State Assistance}$$

Provided, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.47.800 through 28A.47.811, the state board of education may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the state board finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in (2) above, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner herein prescribed times the percentage of state assistance derived as provided for herein shall be the amount of state assistance to the district for the financing of the project: *Provided*, That need therefor has been established to the satisfaction of the state board of education: *Provided, further*, That additional state assistance may be allowed if it is found by the state board of education that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden imposed by virtue of the admission of nonresident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d) and (e) hereinabove, creating a like emergency. [1975 1st ex.s. c 98 § 1; 1974 ex.s. c 56 § 3; 1969 ex.s. c 244 § 4. Formerly RCW.28.47.803.]

Effective date—1975 1st ex.s. c 98: "This 1975 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 July 1, 1975." [1975 1st ex.s. c 98 § 3.] This applies to RCW 28A.47.803 and 28A.47.820.

Severability—1974 ex.s. c 56: See note following RCW 28A.47.801.

Severability—1969 ex.s. c 244: See note following RCW 28A.47.800.

28A.47.820 Board limited when prioritizes construction. The state board of education shall prioritize the construction of common school facilities only from funds appropriated and available in the common school construction fund. [1975 1st ex.s. c 98 § 2.]

Effective date—1975 1st ex.s. c 98: See note following RCW 28A.47.803.

Chapter 28A.48 APPORTIONMENT TO DISTRICTS—DISTRICT ACCOUNTING

Sections

- 28A.48.010 By state superintendent.
- 28A.48.030 Distribution by ESD superintendent.
- 28A.48.040 Repealed.
- 28A.48.050 Credits for nonresident attendance—Procedure for obtaining nonresident attendance credit. (Amended)
- 28A.48.050 Credits for nonresident attendance—Procedure for obtaining nonresident attendance credit. (Repealed)
- 28A.48.055 Private schools must report attendance.
- 28A.48.090 Apportionment for third class districts may be withheld, when. (Amended)
- 28A.48.090 Apportionment for third class districts may be withheld, when. (Repealed)
- 28A.48.100 County treasurer's duties.
- 28A.48.200 Appeal from certain decisions to deny student's request to attend nonresident district—Apportionment credit.

28A.48.010 By state superintendent. On or before the last business day of September 1969 and each month thereafter, the superintendent of public instruction shall apportion from the current state school fund and/or the state general fund to the several educational service districts of the state the proportional share of the total annual amount due and apportionable to such *educational service districts for the school districts thereof as follows, except that such apportionment shall not include state collected property tax dedicated to the common school system, as so provided by chapter 195, Laws of 1973 1st ex. sess.:

September	10%
October	8%
November	6.5%
December	8.5%
January	13%
February	13%
March	11%
April	5%
May	5%
June	3%
July	8.5%
August	8.5%

At such time as the state property tax provided for by chapter 195, Laws of 1973 1st ex. sess. is collected, the

superintendent of public instruction, based on information provided by the state treasurer, shall apportion from the state general fund to the several educational service districts the appropriate share of the state collected property tax due and apportionable to the educational service districts for the school districts thereof. The annual amount due and apportionable shall be the amount apportionable for all apportionment credits estimated to accrue to the schools during the apportionment year beginning September first and continuing through August thirty-first. Appropriations made for school districts for each year of a biennium shall be apportioned according to the schedule set forth in this section for the fiscal year starting July 1 of the then calendar year and ending June 30 of the next calendar year. The apportionment from the state general fund for each month shall be an amount which together with the revenues of the current state school fund will equal the amount due and apportionable to the several educational service districts during such month: *Provided*, That any school district may petition the superintendent of public instruction for an emergency advance of funds which may become apportionable to it but not to exceed ten percent of the total amount to become due and apportionable during the school districts apportionment year. The superintendent of public instruction shall determine if the emergency warrants such advance and if the funds are available therefor. If he determines in the affirmative, he may approve such advance and, at the same time, add such an amount to the apportionment for the educational service district in which the school district is located: *Provided*, That the emergency advance of funds and the interest earned by school districts on the investment of temporary cash surpluses resulting from obtaining such advance of state funds shall be deducted by the superintendent of public instruction from the remaining amount apportionable to said districts during that apportionment year in which the funds are advanced. [1975 1st ex.s. c 275 § 67; 1974 ex.s. c 89 § 1; 1972 ex.s. c 146 § 1; 1970 ex.s. c 15 § 15. Prior: 1969 ex.s. c 184 § 3; 1969 ex.s. c 176 § 108; 1969 ex.s. c 223 § 28A.48.010; prior: 1965 ex.s. c 162 § 1; 1959 c 276 § 3; prior: 1945 c 141 § 3, part; 1923 c 96 § 1; 1911 c 118 § 1; 1909 c 97 p 312 §§ 1, 2, 3; Rem. Supp. 1945 § 4940-3, part. Formerly RCW 28.48.010.]

Reviser's note: (1) For codification of chapter 195, Laws of 1973 1st ex. sess. see notes following RCW 84.52.043.

* (2) "educational service districts" is herein substituted for "intermediate school districts" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—1972 ex.s. c 146: "This 1972 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 section 1 shall take effect July 1, 1972, and section 2 shall take effect immediately." [1972 ex.s. c 146 § 3.] Section 1 of this 1972 act is codified as RCW 28A.48.010, declared effective July 1, 1972; section 2 of this 1972 act is codified as RCW 28A.41.175.

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

28A.48.030 Distribution by ESD superintendent. Upon receiving the certificate of apportionment from the superintendent of public instruction the educational service district superintendent shall promptly apportion

to the school districts of his educational service district the amounts then due and apportionable to such districts as certified by the superintendent of public instruction. The educational service district superintendent shall apportion to the school districts of his educational service district during each of the twelve months of the year the amount then available for apportionment to such districts from the educational service district current school fund. [1975 1st ex.s. c 275 § 68; 1969 ex.s. c 176 § 109; 1969 ex.s. c 223 § 28A.48.030. Prior: 1965 ex.s. c 162 § 2; 1945 c 141 § 9; Rem. Supp. 1945 § 4940-8. Formerly RCW 28.48.030.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.48.040 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.48.050 Credits for nonresident attendance—Procedure for obtaining nonresident attendance credit. The superintendent of any school district whose resident pupils are attending school in another district may notify the superintendent of the district where such pupils attend, when the school of said pupils' resident district will be in session, and of the grades that will be maintained, and he must file a duplicate copy of said notice with the educational service district superintendent. He must name the pupils in his notice, and it shall be the duty of the superintendent of the district so notified, on such dates as the educational service district superintendent shall determine, to certify to the superintendent of the resident district the actual number of days' attendance at school of such pupils during the time that a school of the grade to which the pupil or pupils properly belong was in session in their resident district. And in case said superintendent shall fail or refuse to furnish such information to the superintendent of the resident district, then it shall be the duty of the educational service district superintendent to grant to the resident district for apportionment purposes attendance credit for the actual number of days' attendance of those resident pupils attending school in such other district. Without the notice herein required by the superintendent of the resident district, all claims to attendance will be forfeited. [1975 1st ex.s. c 275 § 69; 1969 ex.s. c 176 § 110; 1969 ex.s. c 223 § 28A.48.050. Prior: 1909 c 97 p 312 § 5; RRS § 4875. Formerly RCW 28.48.050.]

Reviser's note: The amendment of this section by 1975 1st ex.s. c 275 does not take cognizance of the section's repeal by 1975 1st ex.s. c 66 § 3.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.48.050 Credits for nonresident attendance—Procedure for obtaining nonresident attendance credit. [1969 ex.s. c 176 § 110; 1969 ex.s. c 223 § 28A.48.050. Prior: 1909 c 97 p 312 § 5; RRS § 4875. Formerly RCW 28.48.050.] Repealed by 1975 1st ex.s. c 66 § 3.

Reviser's note: This section was also amended by 1975 1st ex.s. c 275 § 69 without cognizance of the repeal thereof.

28A.48.055 Private schools must report attendance. It shall be the duty of the administrative or executive authority of every private school in this state to report to the educational service district superintendent on or before the thirtieth day of June in each year, on a form to be furnished, such information as may be required by the superintendent of public instruction, to make complete the records of education work pertaining to all children residing within the state. [1975 1st ex.s. c 275 § 70; 1969 ex.s. c 176 § 111; 1969 ex.s. c 223 § 28A.48.055. Prior: 1933 c' 28 § 14; 1913 c 158 § 1; 1909 c 97 p 313 § 6; RRS § 4876. Formerly RCW 28.48.055; 28.27.020.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.48.090 Apportionment for third class districts may be withheld, when. Whenever any school board of any third class district shall neglect or refuse to comply with the provisions of RCW 28A.60.186, it shall be the duty of the educational service district superintendent to withhold the entire apportionment accruing to said district until such time as full compliance with requirements thereof has been made. [1975 1st ex.s. c 275 § 72; 1969 ex.s. c 176 § 113; 1969 ex.s. c 223 § 28A.48.090. Prior: 1909 c 97 p 314 § 13; RRS § 4883. Formerly RCW 28.48.090.]

Reviser's note: The amendment of this section by 1975 1st ex.s. c 275 does not take cognizance of the section's repeal by 1975 c 43 § 36.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.48.090 Apportionment for third class districts may be withheld, when. [1969 ex.s. c 176 § 113; 1969 ex.s. c 223 § 28A.48.090. Prior: 1909 c 97 p 314 § 13; RRS § 4883. Formerly RCW 28.48.090.] Repealed by 1975 c 43 § 36.

Reviser's note: This section was also amended by 1975 1st ex.s. c 275 § 72 without cognizance of the repeal thereof.

28A.48.100 County treasurer's duties. The county treasurer of each county of this state shall be ex officio treasurer of the several school districts of their respective counties, and, except as otherwise provided by law, it shall be the duty of each county treasurer:

(1) To receive and hold all moneys belonging to such school districts, and to pay them out only on warrants legally issued.

(2) To certify to the educational service district superintendent and the auditor of his county, at least quarterly each year, the amount of all school funds in his possession subject to apportionment on the last day of the preceding month, which certificate shall specify the source or sources from which said moneys were derived.

(3) To make annually, on or before the twenty-fifth day of July, a report to the educational service district superintendent and auditor of his county, which report shall show the amount of school funds on hand at the beginning of the school year last past belonging to each school district; the amount of funds placed to the credit of each school district during the school year ending June 30th, last past, and the sources from which said funds were derived; the amount of warrants registered during the year, the amount of funds disbursed upon warrants of each school district during the year; the amount of funds remaining in his possession at the close of the school year subject to be paid out upon warrants, and the fund to which said moneys belong; also the amount of all unpaid warrants or bonds appearing upon his register at the close of the school year.

(4) He shall register all school warrants presented to him by the county auditor in a book to be known as the "Treasurer's School District Warrant Register," which register shall show the date issued, number of warrant, to whom issued, amount and purpose, date registered, date advertised, interest if any accruing on said warrant, total as redeemed, date redeemed and to whom paid. If the district has money in the fund on which the warrant is drawn no endorsement on the warrant is

necessary, but if there be no money to the credit of the fund on which the warrant is registered he shall endorse on said warrant the following: "This warrant bears interest at ----- percent per annum from ----- until called for payment. ----- County Treasurer, By ----- Deputy." All warrants shall be paid in the order of their presentation to the county treasurer; and it is hereby made the duty of the county treasurer to advertise, at least quarterly, all warrants which he is prepared to pay, in the same manner in which he is required to advertise county warrants, and after the date fixed in said notice, warrants shall cease to draw interest.

(5) He shall prepare and submit to each school district superintendent in his county a written report of the state of the finances of such district on the first day of each month, which report shall be submitted not later than the seventh day of said month, certified to by the county auditor, which report shall contain the balance on hand the first of the preceding month, the funds paid in, warrants paid with interest thereon, if any, the number of warrants issued and not paid, and the balance on hand.

(6) After each monthly settlement with the county commissioners the treasurer of each county shall submit a statement of all canceled warrants of districts to the respective school district superintendents, which statement shall be verified to by the county auditor. The canceled warrants of each district shall be preserved separately and shall at all times be open to inspection by the school district superintendent or by any authorized accountant of such district. [1975 1st ex.s. c 275 § 73; 1969 ex.s. c 176 § 114; 1969 ex.s. c 223 § 28A.48.100. Prior: 1911 c 85 § 1; 1909 c 97 p 309 § 1; RRS § 4867; prior: 1907 c 240 § 8; 1897 c 118 § 59; 1893 c 109 § 8; 1891 c 127 § 27; 1890 p 380 § 71; 1886 p 26 § 83; Code 1881 § 3236. Formerly RCW 28.48.100.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.48.200 Appeal from certain decisions to deny student's request to attend nonresident district—Apportionment credit. See RCW 28A.58.243.

Chapter 28A.52

VALIDATING INDEBTEDNESS—BONDS

Sections

28A.52.050 Authority to borrow, issue bonds—Bond procedure, interest, signatures.

28A.52.050 Authority to borrow, issue bonds—Bond procedure, interest, signatures. If the indebtedness of such school district is validated and ratified, as provided in this chapter, by three-fifths of the voters voting at such election, the board of directors of such school district, without any further vote, may borrow money and issue negotiable coupon bonds therefor in accordance with the provisions of chapter 39.44 RCW.

Except as provided in RCW 39.44.100 for facsimile signatures, in all school districts of the second class, said bonds, with the coupons, must be signed by the

board of directors and countersigned by the school district superintendent and in school districts of the first class said bonds, with the coupons, must be signed in the corporate name of the district by the president of the board of directors thereof. [1975 c 43 § 2; 1969 ex.s. c 223 § 28A.52.050. Prior: 1909 c 97 p 333 § 5; RRS § 4960; prior: 1897 c 118 § 132; 1895 c 21 § 5. Formerly RCW 28.52.050.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Chapter 28A.56

CAPITAL FUND AID BY NONHIGH DISTRICTS

Sections

- 28A.56.030 Public hearing—Notice.
 28A.56.040 Review by state board—Approval—Revised plan.
 28A.56.050 Bond, excess levy, elections—Use of proceeds.
 28A.56.060 Rejection by voters of nonhigh districts—Additional elections—Revised plan—Annexation proposal.

28A.56.030 Public hearing—Notice. The said county committee shall also hold a public hearing or hearings on any proposed plan: *Provided*, That three members of the committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold such public hearing or hearings and to submit a report thereof to the county committee. The county committee shall cause to be posted, at least ten days prior to the date appointed for any such hearing, a written or printed notice thereof in at least three prominent and public places in the school districts involved and at the place of hearing. [1975 1st ex.s. c 275 § 74; 1971 c 48 § 21; 1969 ex.s. c 223 § 28A.56.030. Prior: 1959 c 262 § 4; 1955 c 344 § 3; 1953 c 229 § 3. Formerly RCW 28.56.030.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.56.040 Review by state board—Approval—Revised plan. Subsequent to the holding of a hearing or hearings as aforesaid, the county committee shall determine the nonhigh school districts to be included in the plan and the amount of capital funds to be provided by every district included therein, and shall submit the proposed plan to the state board of education together with such maps and other materials pertaining thereto as the state board may require. The state board shall review such plan, shall approve any plan which in its judgment makes adequate and satisfactory provision for participation by the nonhigh school districts in providing capital funds to be used for the purpose above stated, and shall notify the county committee of such action. Upon receipt by the county committee of such notification, the educational service district superintendent shall notify the board of directors of each school district included in the plan, supplying each board with complete details of the plan and shall state the total amount of funds to be provided and the amount to be provided by each district.

If any such plan submitted by a county committee is not approved by the state board, the county committee shall be so notified, which notification shall contain a

statement of reasons therefor and suggestions for revision. Within sixty days thereafter the county committee shall submit to the state board a revised plan which revision shall be subject to the procedural requirements and provisions of law applicable to an original plan submitted to said board. [1975 1st ex.s. c 275 § 75; 1971 c 48 § 22; 1969 ex.s. c 223 § 28A.56.040. Prior: 1959 c 262 § 5; 1955 c 344 § 4; 1953 c 229 § 4. Formerly RCW 28.56.040.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.56.050 Bond, excess levy, elections—Use of proceeds. Within sixty days after receipt of the notice of approval from the educational service district superintendent, the board of directors of each school district included in the plan shall submit to the voters thereof a proposal or proposals for providing, through the issuance of bonds and/or the authorization of an excess tax levy, the amount of capital funds that the district is required to provide under the plan. The proceeds of any such bond issue and/or excess tax levy shall be credited to the building fund of the school district in which the proposed high school facilities are to be located and shall be expended to pay the cost of high school facilities for the education of such students residing in the school districts as are included in the plan and not otherwise. [1975 1st ex.s. c 275 § 76; 1971 c 48 § 23; 1969 ex.s. c 223 § 28A.56.050. Prior: 1959 c 262 § 6; 1955 c 344 § 5; 1953 c 229 § 5. Formerly RCW 28.56.050.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.56.060 Rejection by voters of nonhigh districts—Additional elections—Revised plan—Annexation proposal. In the event that a proposal or proposals for providing capital funds as provided in RCW 28A.56.050 is not approved by the voters of a nonhigh school district a second election thereon shall be held within sixty days thereafter. If the vote of the electors of the nonhigh school district is again in the negative, the high school students residing therein shall not be entitled to admission to the high school under the provisions of RCW 28A.58.230, following the close of the school year during which the second election is held: *Provided*, That in any such case the county committee shall determine within thirty days after the date of the aforesaid election the advisability of initiating a proposal for annexation of such nonhigh school district to the school district in which the proposed facilities are to be located or to some other district where its students can attend high school without undue inconvenience: *Provided further*, That pending such determination by the county committee and action thereon as required by law the board of directors of the high school district shall continue to admit high school students residing in the nonhigh school district. Any proposal for annexation of a nonhigh school district initiated by a county committee shall be subject to the procedural requirements of this chapter respecting a public hearing and submission to and approval by the state board of education. Upon approval by the state board of any such proposal, the educational service district superintendent

shall make an order, establishing the annexation. [1975 1st ex.s. c 275 § 77; 1971 c 48 § 24; 1969 ex.s. c 223 § 28A.56.060. Prior: 1959 c 262 § 7; 1955 c 344 § 6; 1953 c 229 § 6. Formerly RCW 28.56.060.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.57 ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

Sections

- 28A.57.020 Definitions.
- 28A.57.031 County committees—Membership limitation.
- 28A.57.032 County committees—Election of members—Representation qualifications—Membership service disability—Secretary when more than one superintendent (as amended by 1975 c 43).
- 28A.57.032 County committees—Election of members—Representation qualifications—Membership service disability—Secretary when more than one superintendent (as amended by 1975 1st ex.s. c 275).
- 28A.57.033 County committees—Vacancies, filling of.
- 28A.57.040 County committees—Organization, meetings, quorum, of county committee.
- 28A.57.050 County committees—Powers and duties of county committee (as amended by 1975 c 43).
- 28A.57.050 County committees—Powers and duties of county committee (as amended by 1975 1st ex.s. c 275).
- 28A.57.070 Action upon board's report.
- 28A.57.075 Adjustment of bonded indebtedness—Special election in certain cases.
- 28A.57.080 Notice of election—Contents—Posting.
- 28A.57.090 Vote, how determined—ESD superintendent's order—Certification—Effective date.
- 28A.57.130 Organization of school districts.
- 28A.57.140 Classes of districts—Change of classification (as amended by 1975 c 43).
- 28A.57.140 Classes of districts—Change of classification (as amended by 1975 1st ex.s. c 275).
- 28A.57.145 Classes of districts—Change of classification—Delay of authorized.
- 28A.57.150 City or town districts.
- 28A.57.170 Petition for reorganization.
- 28A.57.180 Transfer of territory—By petition—By ESD superintendent, limitation, when election required.
- 28A.57.190 Annexation of district bounded on three sides by high school district.
- 28A.57.200 Dissolution and annexation of depopulated districts—Annexation of nondistrict property (as amended by 1975 1st ex.s. c 23).
- 28A.57.200 Dissolution and annexation of depopulated districts—Annexation of nondistrict property (as amended by 1975 1st ex.s. c 275).
- 28A.57.240 Joint school districts—Change or adjustment of joint districts—Procedure generally.
- 28A.57.245 Joint school districts—Change or adjustment of joint districts—Procedure when one committee does not approve, or fails to act—Temporary committee.
- 28A.57.255 Joint school districts—Special rules for electors voting for directors or ESD board members.
- 28A.57.290 Joint school districts—Apportionment of tax to be levied.
- 28A.57.300 Joint school districts—Levy of tax—Remittance of collections to district treasurer.
- 28A.57.312 Directors—Elections—Terms—Number.
- 28A.57.324 Directors—Meetings.
- 28A.57.326 Directors—Filling vacancies.
- 28A.57.328 Directors—Number and terms of in new second class districts (as amended by 1975 c 43).
- 28A.57.328 Directors—Number and terms of in new second or third class districts (as amended by 1975 1st ex.s. c 275).

- 28A.57.329 Directors—Number and terms of in new second class districts due to elimination of third class district classification.
- 28A.57.332 Repealed.
- 28A.57.342 Directors' districts in certain school districts—Submission of proposition at formation election.
- 28A.57.344 Directors' districts in certain school districts—Election to authorize division in school districts not already divided into directors' districts.
- 28A.57.355 Directors—Number and terms of in first class districts containing no former first class district.
- 28A.57.356 Directors—Number and terms of in first class districts containing only one former first class district (as amended by 1975 c 43).
- 28A.57.356 Directors—Number and terms of in first class districts containing only one former first class district (as amended by 1975 1st ex.s. c 275).
- 28A.57.357 Directors—Number and terms of in first class districts containing more than one former first class district (as amended by 1975 c 43).
- 28A.57.357 Directors—Number and terms of in first class districts containing more than one former first class district (as amended by 1975 1st ex.s. c 275).
- 28A.57.358 Directors—Number and terms of in new first class district having enrollment of 50,000 in class AA counties (as amended by 1975 c 43).
- 28A.57.358 Directors—Number and terms of in new first class district having enrollment of 50,000 in class AA counties (as amended by 1975 1st ex.s. c 275).
- 28A.57.390 Directors—Map and record of directors' districts.
- 28A.57.415 Directors—Dissolution of directors' districts (as amended by 1975 c 43).
- 28A.57.415 Directors—Dissolution of directors' districts (as amended by 1975 1st ex.s. c 275).

28A.57.020 Definitions. As used in this chapter:

(1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.

(2) "County committee" means the county committee on school district organization created by this chapter.

(3) "State board" means the state board of education.

(4) "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

(5) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW 28A.21.070. When a county has property both within and without an educational service district or districts, the state board of education shall determine which educational service district superintendent shall carry out the functions assigned to the educational service district superintendent under this chapter and be secretary to the county committee as provided for in RCW 28A.57.040, said appointee to serve at the pleasure of the state board. [1975 1st ex.s. c 275 § 78; 1971 c 48 § 25; 1969 ex.s. c 223 § 28A.57.020. Prior: 1955 c 395 § 1; 1947 c 266 § 2; Rem. Supp. 1947 § 4693–21. Formerly RCW 28.57.020.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.57.031 County committees—Membership limitation. Neither the educational service district superintendent nor an employee of a school district shall be a member of the county committee. [1975 1st ex.s. c 275 § 79; 1969 ex.s. c 176 § 115; 1969 ex.s. c 223 § 28A.57.031. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 §

4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28.57.030, part.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.032 County committees—Election of members—Representation qualifications—Membership service disability—Secretary when more than one superintendent (as amended by 1975 c 43). The members of the county committee shall be elected by the *educational service district superintendent and the members of the board of directors of the school districts of the county at a meeting which the *educational service district superintendent shall call for that and any additional purpose. At least one member of the county committee shall be elected from among the registered voters of each county commissioner's district in the county; and, as nearly as possible, an equal number of members shall be elected from among the registered voters of each class of school district (first or second class) in the county. No member of a county committee shall continue to serve thereon if he ceases to be a registered voter of the county or if he is absent from three consecutive meetings of the committee without an excuse acceptable to the committee.

If more than one *educational service district superintendent has jurisdiction within a county all such superintendents shall participate in electing the committee, and the *educational service district superintendent having jurisdiction over the most populous part of the county shall serve as secretary of the committee and call meetings where so provided. [1975 c 43 § 3; 1969 ex.s. c 176 § 116; 1969 ex.s. c 223 § 28A.57.032. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28.57.030, part.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.032 County committees—Election of members—Representation qualifications—Membership service disability—Secretary when more than one superintendent (as amended by 1975 1st ex.s. c 275). The members of the county committee shall be elected by the educational service district superintendent and the members of the board of directors of the school districts of the county at a meeting which the educational service district superintendent shall call for that and any additional purpose. At least one member of the county committee shall be elected from among the registered voters of each county commissioner's district in the county; and, as nearly as possible, an equal number of members shall be elected from among the registered voters of each class of school district (first, second, or third class) in the county. No member of a county committee shall continue to serve thereon if he ceases to be a registered voter of the county or if he is absent from three consecutive meetings of the committee without an excuse acceptable to the committee.

If more than one educational service district superintendent has jurisdiction within a county all such superintendents shall participate in electing the committee, and the educational service district superintendent having jurisdiction over the most populous part of the county shall serve as secretary of the committee and call meetings where so provided. [1975 1st ex.s. c 275 § 80; 1969 ex.s. c 176 § 116; 1969 ex.s. c 223 § 28A.57.032. Prior: 1947 c 226 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28.57.030, part.]

Reviser's note: RCW 28A.57.032 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.033 County committees—Vacancies, filling of. Vacancies in the membership of the county committee shall be filled by the persons charged with the duty of electing the members of the committee under RCW

28A.57.032: *Provided*, That the committee may fill vacancies in its membership pending the calling of a meeting of said persons for this purpose by the educational service district superintendent. [1975 1st ex.s. c 275 § 81; 1969 ex.s. c 176 § 117; 1969 ex.s. c 223 § 28A.57.033. Prior: 1947 c 266 § 11, part; Rem. Supp. 1947 § 4693-30, part; prior: 1941 c 248 § 3, part; Rem. Supp. 1941 § 4709-3, part. Formerly RCW 28.57.030, part.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.040 County committees—Organization, meetings, quorum, of county committee. The county committee shall organize by electing from its membership a chairman and a vice chairman. The educational service district superintendent shall be the secretary of the committee. Meetings of the committee shall be held upon call of the chairman or of a majority of the members thereof. A majority of the committee shall constitute a quorum. [1975 1st ex.s. c 275 § 82; 1969 ex.s. c 176 § 119; 1969 ex.s. c 223 § 28A.57.040. Prior: 1947 c 266 § 12; Rem. Supp. 1947 § 4693-31; prior: 1941 c 248 § 4; Rem. Supp. 1941 § 4709-4. Formerly RCW 28.57.040.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.050 County committees—Powers and duties of county committee (as amended by 1975 c 43). The powers and duties of the county committee shall be:

(1) To initiate, on its own motion and whenever it deems such action advisable, proposals or alternate proposals for changes in the organization and extent of school districts in the county; to receive, consider, and revise, whenever in its judgment revision is advisable, proposals initiated by petition or presented to the committee by the *educational service district superintendent as provided for in this chapter; to prepare and submit to the state board any of the aforesaid proposals that are found by the county committee to provide for satisfactory improvement in the school district system of the county and state; to prepare and submit with the aforesaid proposals, a map showing the boundaries of existing districts affected by any proposed change and the boundaries, including a description thereof, of each proposed new district or of each existing district as enlarged or diminished by any proposed change, or both, and a summary of the reasons for the proposed change; and such other reports, records, and materials as the state board may request. The committee may utilize as a basis of its proposals and changes that comprehensive plan for changes in the organization and extent of the school districts of the county prepared and submitted to the state board prior to September 1, 1956, or, if the county committee found, after considering the factors listed in RCW 28A.57.055, that no changes in the school district organization of the county were needed, the report to this effect submitted to the state board.

(2) (a) To make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts; and (b) to make an equitable adjustment of the bonded indebtedness outstanding against any of the aforesaid districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected; and (c) to submit to the state board the proposed terms of adjustment and a statement of the reasons therefor in each case. In making the adjustments herein provided for, the county committee shall consider the number of children of school age resident in and the assessed valuation of the property located in each district and in each part of a district involved or affected; the purpose for which the bonded indebtedness of any district was incurred; the value, location, and disposition of all improvements located in the

districts involved or affected; and any other matters which in the judgment of the committee are of importance or essential to the making of an equitable adjustment.

(3) To hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW 28A.57.190 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the county committee or two members of the committee and the *educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The county committee shall cause to be posted, at least ten days prior to the date appointed for any such hearing, a written or printed notice thereof (a) in at least three public places in the territory of each proposed new district or of each established district when such district is involved in a question of adjustment of bonded indebtedness, (b) in at least one public place in territory proposed to be transferred or annexed to an existing school district, (c) on a commonly-used schoolhouse door of each district involved in or affected by any proposed change or adjustment upon which a public hearing is required; and (d) at the place or places of holding the hearing. In addition notice may be given by newspaper, radio, and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(4) To divide into five school directors' districts all first and second class school districts now in existence and not heretofore so divided and all first and second class school districts hereafter established: *Provided*, That no first or second class school district not heretofore so divided and no first or second class school district hereafter created containing a city with a population in excess of seven thousand according to the latest population certificate filed with the secretary of state by the planning and community affairs agency shall be divided into directors' districts unless a majority of the registered voters voting thereon at an election shall approve a proposition authorizing the division of the district into directors' districts. The boundaries of each directors' district shall be so established that each such district shall comprise as nearly as practicable an equal portion of the population of the school district.

(5) To rearrange at any time the committee deems such action advisable in order to correct inequalities caused by changes in population and changes in school district boundaries, the boundaries of any of the directors' districts of any school district heretofore or hereafter so divided: *Provided*, That a petition therefor, shall be required for rearrangement in order to correct inequalities caused by changes in population. Said petition shall be signed by at least ten registered voters residing in the aforesaid school district, and shall be presented to the *educational service district superintendent. A public hearing thereon shall be held by the county committee, which hearing shall be called and conducted in the manner prescribed in subsection (3) of this section, except that notice thereof shall be posted in some public place in each directors' district of the school district and on a commonly-used schoolhouse door of the district and at the place of holding the hearing. In addition notice may be given by newspaper, radio, and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(6) To prepare and submit to the superintendent of public instruction from time to time or, upon his request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities. [1975 c 43 § 4; 1969 ex.s. c 176 § 120; 1969 ex.s. c 223 § 28A.57.050. Prior: 1959 c 268 § 2, part; 1955 c 395 § 2, part; 1947 c 266 § 13, part; Rem. Supp. 1941 § 4693-32, part; prior: 1941 c 248 § 5, part; Rem. Supp. 1941 § 4709-5, part. Formerly RCW 28.57.050, part.]

*Reviser's note: "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.050 County committees—Powers and duties of county committee (as amended by 1975 1st ex.s. c 275). The powers and duties of the county committee shall be:

(1) To initiate, on its own motion and whenever it deems such action advisable, proposals or alternate proposals for changes in the organization and extent of school districts in the county; to receive, consider, and revise, whenever in its judgment revision is advisable, proposals initiated by petition or presented to the committee by the educational service district superintendent as provided for in this chapter; to prepare and submit to the state board any of the aforesaid proposals that are found by the county committee to provide for satisfactory improvement in the school district system of the county and state; to prepare and submit with the aforesaid proposals, a map showing the boundaries of existing districts affected by any proposed change and the boundaries, including a description thereof, of each proposed new district or of each existing district as enlarged or diminished by any proposed change, or both, and a summary of the reasons for the proposed change; and such other reports, records, and materials as the state board may request. The committee may utilize as a basis of its proposals and changes that comprehensive plan for changes in the organization and extent of the school districts of the county prepared and submitted to the state board prior to September 1, 1956, or, if the county committee found, after considering the factors listed in RCW 28A.57.055, that no changes in the school district organization of the county were needed, the report to this effect submitted to the state board.

(2) (a) To make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts; and (b) to make an equitable adjustment of the bonded indebtedness outstanding against any of the aforesaid districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected; and (c) to submit to the state board the proposed terms of adjustment and a statement of the reasons therefor in each case. In making the adjustments herein provided for, the county committee shall consider the number of children of school age resident in and the assessed valuation of the property located in each district and in each part of a district involved or affected; the purpose for which the bonded indebtedness of any district was incurred; the value, location, and disposition of all improvements located in the districts involved or affected; and any other matters which in the judgment of the committee are of importance or essential to the making of an equitable adjustment.

(3) To hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW 28A.57.190 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the county committee or two members of the committee and the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The county committee shall cause to be posted, at least ten days prior to the date appointed for any such hearing, a written or printed notice thereof (a) in at least three public places in the territory of each proposed new district or of each established district when such district is involved in a question of adjustment of bonded indebtedness, (b) in at least one public place in territory proposed to be transferred or annexed to an existing school district, (c) on a commonly-used schoolhouse door of each district involved in or affected by any proposed change or adjustment upon which a public hearing is required; and (d) at the place or places of holding the hearing. In addition notice may be given by newspaper, radio, and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(4) To divide into five school directors' districts all first and second class school districts now in existence and not heretofore so divided and all first and second class school districts hereafter established: *Provided*, That no first or second class school district not heretofore so divided and no first or second class school district hereafter created containing a city with a population in excess of seven thousand according to the latest population certificate filed with the secretary of state by the planning and community affairs agency shall be divided

into directors' districts unless a majority of the registered voters voting thereon at an election shall approve a proposition authorizing the division of the district into directors' districts: *And provided further*, That nothing in this chapter shall authorize the division of any new or existing third class school district into school directors' districts. The boundaries of each directors' district shall be so established that each such district shall comprise as nearly as practicable an equal portion of the population of the school district.

(5) To rearrange at any time the committee deems such action advisable in order to correct inequalities caused by changes in population and changes in school district boundaries, the boundaries of any of the directors' districts of any school district heretofore or hereafter so divided: *Provided*, That a petition therefor, shall be required for rearrangement in order to correct inequalities caused by changes in population. Said petition shall be signed by at least ten registered voters residing in the aforesaid school district, and shall be presented to the educational service district superintendent. A public hearing thereon shall be held by the county committee, which hearing shall be called and conducted in the manner prescribed in subsection (3) of this section, except that notice thereof shall be posted in some public place in each directors' district of the school district and on a commonly-used schoolhouse door of the district and at the place of holding the hearing. In addition notice may be given by newspaper, radio, and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(6) To prepare and submit to the superintendent of public instruction from time to time or, upon his request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities. [1975 1st ex.s. c 275 § 83; 1969 ex.s. c 176 § 120; 1969 ex.s. c 223 § 28A.57.050. Prior: 1959 c 268 § 2, part; 1955 c 395 § 2, part; 1947 c 266 § 13, part; Rem. Supp. 1941 § 4693-32, part; prior: 1941 c 248 § 5, part; Rem. Supp. 1941 § 4709-5, part. Formerly RCW 28.57.050, part.]

Reviser's note: RCW 28A.57.050 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Planning and community affairs agency: Chapter 43.63A RCW.

28A.57.070 Action upon board's report. Upon receipt by the county committee of such notice from the state board as is required in RCW 28A.57.060(2), the educational service district superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of an established school district or districts and all approved terms of adjustment of assets and liabilities involving an established district or districts the boundaries of which have been or are hereafter altered in the manner provided by law, and shall certify his action to each county auditor for the board of county commissioners, each county treasurer, each county assessor and the superintendents of all school districts affected by such action. Upon receipt of such certification the superintendent of each school district which is annexed to another district by the action shall deliver to the superintendent of the school district to which annexed all books, papers, documents, records, and other materials pertaining to his office. [1975 1st ex.s. c 275 § 84; 1969 ex.s. c 176 § 121; 1969 ex.s. c 223 § 28A.57.070. Prior: 1957 c 129 § 1, part; 1955 c 395 § 4, part; 1951 c 87 § 1, part; 1947 c 266 § 19, part; Rem. Supp. 1947 § 4693-38, part. Formerly RCW 28.57.070, part.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.075 Adjustment of bonded indebtedness—Special election in certain cases. Whenever adjustments of bonded indebtedness are made between or among school districts in connection with the alteration of the boundaries thereof, pursuant to the provisions of this chapter, the order of the educational service district superintendent establishing the terms of adjustment of bonded indebtedness shall provide and specify:

(1) In every case where bonded indebtedness is transferred from one school district to another school district (a) that such bonded indebtedness is assumed by the school district to which it is transferred; (b) that thereafter such bonded indebtedness shall be the obligation of the school district to which it is transferred; (c) that, if the terms of adjustment so provide, any bonded indebtedness thereafter incurred by such transferee school district through the sale of bonds authorized prior to the date its boundaries were altered shall be the obligation of such school district including the territory added thereto; and (d) that taxes shall be levied thereafter against the taxable property located within such school district as it is constituted after its boundaries were altered, said taxes to be levied at the times and in the amounts required to pay the principal of and the interest on the bonded indebtedness assumed or incurred as aforesaid, as the same become due and payable.

In computing the debt limitation of any school district from which or to which bonded indebtedness has been transferred, the amount of such transferred bonded indebtedness at any time outstanding (a) shall be an offset against and deducted from the total bonded indebtedness, if any, of the school district from which such bonded indebtedness was transferred and (b) shall be deemed to be bonded indebtedness solely of the transferee school district that assumed such indebtedness.

(2) In every case where adjustments of bonded indebtedness do not provide for transfer of bonded indebtedness from one school district to another school district (a) that the existing bonded indebtedness of each school district the boundaries of which are altered and any bonded indebtedness incurred by each such school district through the sale of bonds authorized prior to the date its boundaries were altered shall be the obligation of the school district in its reduced or enlarged form, as the case may be; and (b) that taxes shall be levied thereafter against the taxable property located within each such school district in its reduced or enlarged form, as the case may be, at the times and in the amounts required to pay the principal of and interest on such bonded indebtedness as the same become due and payable.

In case the aforesaid approval by the state board concerns a proposal to form a new school district or a proposal for adjustment of bonded indebtedness involving an established school district and one or more former school districts now included therein pursuant to a vote of the people concerned, a special election of the

voters residing within the territory of the proposed new district or of the established district involved in a proposal for adjustment of bonded indebtedness as the case may be shall be held for the purpose of affording said voters an opportunity to approve or reject such proposals as concern or affect them.

In a case involving both the question of the formation of a new district and the question of adjustment of bonded indebtedness, the questions may be submitted to the voters either in the form of a single proposition or as separate propositions, whichever to the educational service district superintendent seems expedient. When the county committee has passed appropriate resolutions for the questions to be submitted and the educational service district superintendent has given notice thereof to the county auditor such special election shall be called, conducted, and the returns canvassed as in regular school district elections. [1975 1st ex.s. c 275 § 85; 1969 ex.s. c 176 § 122; 1969 ex.s. c 223 § 28A.57.075. Prior: 1957 c 129 § 1, part; 1955 c 395 § 4, part; 1951 c 87 § 1, part; 1947 c 266 § 19, part; Rem. Supp. 1947 § 4693-38, part. Formerly RCW 28.57.070, part.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.080 Notice of election—Contents—

Posting. Notice of such special elections as provided for in RCW 28A.57.075 shall be given by the county auditor as in RCW 29.27.080 provided, and in addition thereto the educational service district superintendent shall cause to be posted (1) in at least three public places in the territory of a proposed new district or of an established district involved in a proposal for adjustment of bonded indebtedness, and (2) on a commonly-used schoolhouse door of each district included in the proposed new district, and (3) in some public place in the territory of each part of a district included in the proposed new district, and (4) at the place or places of holding the election, a statement encompassing the contents of the notice. The notice of election shall state the purpose for which the election has been called and shall contain a description of the boundaries of the proposed new district and a statement of any terms of adjustment of bonded indebtedness to be voted on. [1975 1st ex.s. c 275 § 86; 1971 c 48 § 26; 1969 ex.s. c 223 § 28A.57.080. Prior: 1947 c 266 § 20; Rem. Supp. 1947 § 4693-39. Formerly RCW 28.57.080.]

Severability—1971 ex.s. c 48: See note following RCW 28A.04.040.

28A.57.090 Vote, how determined—ESD superintendent's order—Certification—Effective date.

Whenever a special election is held to vote on a proposal or alternate proposals to form a new school district, the votes cast by the registered voters in each component district shall be tabulated separately and any such proposition shall be considered approved only if it receives a majority of the votes cast in each separate district voting thereon. Whenever a special election is held to vote on a proposal for adjustment of bonded

indebtedness the entire vote cast by the registered voters of the proposed new district or of the established district as the case may be shall be tabulated and any such proposition shall be considered approved if a majority of sixty percent of all votes cast thereon is in the affirmative.

In the event of approval of a proposition or propositions voted on at a special election, the educational service district superintendent shall: (1) Make an order establishing such new district or such terms of adjustment of bonded indebtedness or both, as were approved by the registered voters and shall also order effected such other terms of adjustment, if there be any, of property and other assets and of liabilities other than bonded indebtedness as have been approved by the state board; and (2) certify his action to the county and school district officials specified in RCW 28A.57.070. He may designate, with the approval of the new district, a name and number different from that of any component thereof but must designate the new district by name and number different from any other district in existence in the county.

The educational service district superintendent, if he deems such action advisable, may fix, as the effective date of any order or orders he is required by this chapter to make, the first day of July next succeeding the date of final approval of any change in the organization and extent of school districts or of any terms of adjustment of the assets and liabilities of school districts.

Upon receipt of the aforesaid certification, the superintendent of each school district which is included in the new district shall deliver to the superintendent of the new school district all books, papers, documents, records and other materials pertaining to his office. [1975 1st ex.s. c 275 § 87; 1969 ex.s. c 176 § 123; 1969 ex.s. c 223 § 28A.57.090. Prior: 1957 c 296 § 1; 1955 c 395 § 5; 1947 c 266 § 21; Rem. Supp. 1947 § 4693-40. Formerly RCW 28.57.090.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.130 Organization of school districts. A school district shall be organized in form and manner as hereinafter in this chapter provided, and shall be known as ----- (insert here the name of the district) School District No. -----, ----- county, state of Washington: *Provided*, That all school districts now existing as shown by the records of the educational service district superintendent are hereby recognized as legally organized districts: *Provided further*, That all school districts existing on April 25, 1969 as shown by the records of the county or intermediate district superintendents are hereby recognized as legally organized districts. [1975 1st ex.s. c 275 § 88; 1969 ex.s. c 176 § 124; 1969 ex.s. c 223 § 28A.57.130. Prior: 1947 c 266 § 3; Rem. Supp. 1947 § 4693-22. Formerly RCW 28.57.130.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.140 Classes of districts—Change of classification (as amended by 1975 c 43). Any school district in the state having a student enrollment within the public schools of such district of two thousand pupils or more, as shown by any regular census as required under RCW 28A.58.150(4), as now or hereafter amended, or by any other evidence acceptable to the *educational service district superintendent and the superintendent of public instruction, shall be a school district of the first class. Any other school district shall be a school district of the second class.

Whenever the *educational service district superintendent finds that the classification of a school district should be changed, and upon the approval of the superintendent of public instruction, he shall make an order in conformity with his findings and alter the records of his office accordingly. Thereafter the board of directors of the district shall organize in the manner provided by law for the organization of the board of a district of the class to which said district then belongs. [1975 c 43 § 1; 1969 ex.s. c 176 § 125; 1969 ex.s. c 223 § 28A.57.140. Prior: 1947 c 266 § 9; Rem. Supp. 1947 § 4693-28; prior: 1909 p 264 §§ 2, 3, 4; RRS §§ 4695, 4696, 4697. Formerly RCW 28.57.140.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—1975 c 43: "The effective date of this amendatory act shall be July 1, 1975." [1975 c 43 § 37.]

Severability—1975 c 43: "If any provision of this 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." [1975 c 43 § 38.]

The above annotations apply to RCW 28A.52.050, 28A.57.032, 28A.57.050, 28A.57.140, 28A.57.145, 28A.57.312, 28A.57.324, 28A.57.328, 28A.57.329, 28A.57.342, 28A.57.344, 28A.57.356, 28A.57.357, 28A.57.358, 28A.57.415, 28A.60.010, 28A.60.070, 28A.60.190, 28A.60.200, 28A.60.210, 28A.60.310, 28A.60.320, 28A.60.328, 28A.65.080, 28A.65.090, 28A.65.100, 28A.65.120, 28A.65.150, 28A.66.010, 28A.66.020, 28A.66.040, 28A.66.080, 36.22.090, 41.32.420, 84.52.020 and the repeal of RCW 28A.48.090, 28A.57.332, 28A.60.185 and 28A.60.186.

28A.57.140 Classes of districts—Change of classification (as amended by 1975 1st ex.s. c 275). Any school district in the state having a population in excess of ten thousand, as shown by any regular or special census or by any other evidence acceptable to the educational service district superintendent, shall be a school district of the first class. Any other school district maintaining a fully accredited high school or containing a city of the third class or of the fourth class or an area of one square mile having a population of at least three hundred shall be a school district of the second class. All other school districts shall be school districts of the third class.

Whenever the educational service district superintendent finds that the classification of a school district should be changed, he shall make an order in conformity with his findings and alter the records of his office accordingly. Thereafter the board of directors of the district shall organize in the manner provided by law for the organization of the board of a district of the class to which said district then belongs. [1975 1st ex.s. c 275 § 89; 1969 ex.s. c 176 § 125; 1969 ex.s. c 223 § 28A.57.140. Prior: 1947 c 266 § 9; Rem. Supp. 1947 § 4693-28; prior: 1909 p 264 §§ 2, 3, 4; RRS §§ 4695, 4696, 4697. Formerly RCW 28.57.140.]

Reviser's note: RCW 28A.57.140 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.145 Classes of districts—Change of classification—Delay of authorized. Notwithstanding any other provision of *chapter 43, Laws of 1975, the **educational service district superintendent, with the concurrence of the superintendent of public instruction, may delay approval of a change in classification of any school district for a period not exceeding three years when, in fact, the student enrollment of the district

within any such time period does not exceed ten percent, either in a decrease or increase thereof. [1975 c 43 § 35.]

Reviser's note: *(1) Disposition of sections of chapter 43, Laws of 1975, see notes following RCW 28A.57.140.

***(2) "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.150 City or town districts. Each incorporated city or town in the state shall be comprised in one school district: *Provided*, That nothing in this section shall be construed: (1) To prevent the extension of the boundaries of a school district beyond the limits of the city or town contained therein, or (2) to prevent the inclusion of two or more incorporated cities or towns in a single school district, or (3) to change or disturb the boundaries of any school district organized prior to the incorporation of any city or town, except as hereafter in this section provided.

In case all or any part of a school district that operates a school or schools on one site only or operates elementary schools only on two or more sites is included in an incorporated city or town through the extension of the limits of such city or town in the manner provided by law, the educational service district superintendent shall: (1) Declare the territory so included to be a part of the school district containing the city or town and (2) whenever a part of a district so included contains a school building of the district, present to the county committee a proposal for the disposition of any part or all of the remaining territory of the district.

In case of the extension of the limits of a town to include territory lying in a school district that operates on more than one site one or more elementary schools and one or more junior high schools or high schools, the county committee shall, in its discretion, prepare a proposal or proposals for annexation to the school district in which the town is located any part or all of the territory aforesaid which has been included in the town and for annexation to the school district in which the town is located or to some other school district or districts any part or all of the remaining territory of the school district affected by extension of the limits of the town: *Provided*, That where no school or school site is located within the territory annexed to the town and not less than seventy-five percent of the registered voters residing within the annexed territory present a petition in writing for annexation and transfer of said territory to the school district in which the town is located, the educational service district superintendent shall declare the territory so included to be a part of the school district containing said town: *Provided further*, That territory approved for annexation to a city or town by vote of the electors residing therein prior to January 12, 1953, shall not be subject to the provisions herein respecting annexation to a school district or school districts: *And provided further*, That the provisions and procedural requirements of this chapter as now or hereafter amended not in conflict with or inconsistent with the provisions hereinabove in this section stated shall

apply in the case of any proposal or proposals (1) for the alteration of the boundaries of school districts through and by means of annexation of territory as aforesaid, and (2) for the adjustment of the assets and liabilities of the school districts involved or affected thereby.

In case of the incorporation of a city or town containing territory lying in two or more school districts or of the uniting of two or more cities or towns not located in the same school district, the educational service district superintendent, except where the incorporation or consolidation would affect a district or districts of the first class, shall: (1) Order and declare to be established in each such case a single school district comprising all of the school districts involved, and (2) designate each such district by name and by a number different from that of any other district in existence in the county.

The educational service district superintendent, if he deems such action advisable, may fix as the effective date of any declaration or order required under this section the first day of July next succeeding the date of the issuance of such declaration or order. [1975 1st ex.s. c 275 § 90; 1969 ex.s. c 176 § 126; 1969 ex.s. c 223 § 28A.57.150. Prior: 1965 ex.s. c 108 § 1; 1963 c 208 § 1; 1953 c 49 § 1; 1947 c 266 § 5; Rem. Supp. 1947 § 4693-24; prior: 1909 c 97 p 265 § 3; RRS § 4703. Formerly RCW 28.57.150.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.170 Petition for reorganization. For the purpose of forming a new school district, a petition in writing may be presented to the educational service district superintendent, as secretary of the county committee, signed either by ten registered voters or by a majority of the registered voters residing (1) in each whole district and in each part of a district proposed to be included in any single new district, or (2) in the territory of a proposed new district which comprises a part only of one or more districts. The petition shall state the name and number of each district involved in or affected by the proposal to form the new district and shall describe the boundaries of the proposed new district. [1975 1st ex.s. c 275 § 91; 1969 ex.s. c 176 § 127; 1969 ex.s. c 223 § 28A.57.170. Prior: 1947 c 266 § 15; Rem. Supp. 1947 § 4693-34; prior: 1909 c 97 p 266 § 1; RRS § 4721; prior: 1899 c 14 § 1; 1897 c 118 § 4; 1891 c 127 § 7; 1890 p 361 § 19. Formerly RCW 28.57.170.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.180 Transfer of territory—By petition—By ESD superintendent, limitation, when election required. For the purpose of transferring territory from one school district to another district, a petition in writing may be presented to the educational service district superintendent, as secretary of the county committee, signed by a majority of the registered voters residing in the territory proposed to be transferred, or by the board of directors of one of the districts affected by a proposed transfer of territory if there is no registered voter resident in the territory, which petition shall

state the name and number of each district affected, describe the boundaries of the territory proposed to be transferred, and state the reasons for desiring the change and the number of children of school age, if any, residing in the territory: *Provided*, That the educational service district superintendent, without being petitioned to do so, may present to the county committee a proposal for the transfer from one school district to another of any territory in which no children of school age reside: *Provided further*, That the educational service district superintendent shall not complete any transfer of territory pursuant to the provisions of this section which involves ten percent or more of the common school student population of the entire district from which such transfer is proposed, unless he has first called and held a special election of the voters of the entire school district from which such transfer of territory is proposed for the purpose of affording said voters an opportunity to approve or reject such proposed transfer, and has obtained approval of the proposed transfer by a majority of those registered voters voting in said election; and if such proposed transfer is disapproved, the state board of education shall determine whether or not said district is meeting or capable of meeting minimum standards of education as set up by the state board. If the board decides in the negative, the superintendent of public instruction may thereupon withhold from such district, in whole or in part, state contributed funds. [1975 1st ex.s. c 275 § 92; 1969 ex.s. c 176 § 128; 1969 ex.s. c 223 § 28A.57.180. Prior: 1959 c 268 § 14; 1947 c 266 § 16; Rem. Supp. 1947 § 4693-35; prior: 1915 c 50 § 1; RRS § 4727. Formerly RCW 28.57.180.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.190 Annexation of district bounded on three sides by high school district. Whenever all or any part of a school district in which no accredited high school is maintained is bounded on three or more sides by a school district in which an accredited high school is situated and maintained, or by a school district in which a high school with a program approved by the state board of education is situated and maintained, the educational service district superintendent shall report said fact to the county committee, which committee shall consider the question of the annexation to the aforesaid high school district of the territory or district so bounded. [1975 1st ex.s. c 275 § 93; 1969 ex.s. c 176 § 129; 1969 ex.s. c 223 § 28A.57.190. Prior: 1947 c 266 § 17; Rem. Supp. 1947 § 4693-36. Formerly RCW 28.57.190.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.200 Dissolution and annexation of depopulated districts—Annexation of nondistrict property (as amended by 1975 1st ex.s. c 23). In case any school district shall have an average enrollment of fewer than two pupils or shall not have made a reasonable effort to maintain, during the preceding school year at least the minimum term of school required by law, the *educational service district superintendent shall report said fact to the county committee, which committee shall dissolve the school district and annex the territory thereof to some other district or districts: *Provided*, That for the purposes of this section, in addition to any other finding, "reasonable effort" shall be

deemed to mean the attempt to make up whatever days are short of the legal requirement by the conducting of school classes on any days to include available holidays, though not to include Saturdays and Sundays, prior to June 15 of that year: *Provided further*, That school districts operating an extended school year program, most commonly implemented as a 45-15 plan, shall be deemed to be making a reasonable effort: *Provided further*, That in the event any school district has suffered any interruption in its normal school calendar due to a strike or other work stoppage or slowdown by any of its employees such district shall not be subject to the requirements of this section. In case any territory is not a part of any school district, the *educational service district superintendent shall present to the county committee a proposal for the annexation of said territory to some contiguous district or districts. [1975 1st ex.s. c 23 § 1; 1970 ex.s. c 86 § 4; 1969 ex.s. c 176 § 130; 1969 ex.s. c 223 § 28A.57.200. Prior: 1947 c 266 § 18; Rem. Supp. 1947 § 4693-37. Formerly RCW 28.57.200.]

***Revisers note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

28A.57.200 Dissolution and annexation of depopulated districts—Annexation of nondistrict property (as amended by 1975 1st ex.s. c 275). In case any school district shall have an average enrollment of fewer than two pupils or shall not have maintained, during the preceding school year at least the minimum term of school required by law, the educational service district superintendent shall report said fact to the county committee, which committee shall dissolve the school district and annex the territory thereof to some other district or districts. In case any territory is not a part of any school district, the educational service district superintendent shall present to the county committee a proposal for the annexation of said territory to some contiguous district or districts. [1975 1st ex.s. c 275 § 94; 1970 ex.s. c 86 § 4; 1969 ex.s. c 176 § 130; 1969 ex.s. c 223 § 28A.57.200. Prior: 1947 c 266 § 18; Rem. Supp. 1947 § 4693-37. Formerly RCW 28.57.200.]

Reviser's note: RCW 28A.57.200 was amended twice during the 1975 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 session, see RCW 1.12.025.

Severability—1970 ex.s. c 86: "If any provision of this 1970 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." [1970 ex.s. c 86 § 7.] This applies to RCW 28A.57.200 and other sections, temporary in nature, and thus not codified herein.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.240 Joint school districts—Change or adjustment of joint districts—Procedure generally. The duties in this chapter imposed upon and required to be performed by a county committee and by an educational service district superintendent in connection with a change in the organization and extent of school districts and/or with the adjustment of the assets and liabilities of school districts and with all matters related to such change or adjustment whenever territory lying in a single county is involved shall be performed jointly by the county committees and by the superintendents of the several educational service districts as required whenever territory lying in more than one county or educational service district is involved: *Provided*, That a county committee may designate three of its members, or two of its members and the educational service district superintendent, as a subcommittee to serve in lieu of the whole committee, but action by a subcommittee shall not be binding unless approved by the whole committee of the county. Proposals for changes in the organization and extent of school districts and

proposed terms of adjustment of assets and liabilities thus prepared and approved shall be submitted to the state board by the county committee of the county in which is located the part of the proposed or enlarged district having the largest number of common school pupils residing therein. [1975 1st ex.s. c 275 § 95; 1973 c 47 § 2; 1969 ex.s. c 176 § 131; 1969 ex.s. c 223 § 28A.57.240. Prior: 1947 c 266 § 26; Rem. Supp. 1947 § 4693-45. Formerly RCW 28.57.240.]

Severability—1973 c 47: See note following RCW 28A.57.230.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.245 Joint school districts—Change or adjustment of joint districts—Procedure when one committee does not approve, or fails to act—Temporary committee. Whenever a change in the organization and extent of school districts or an adjustment of the assets and liabilities of school districts, or both, or any other matters related to such change or adjustment involve a joint district, and a majority of the county committee or either county approve a proposal but the proposal is not approved by the other county committee or said committee fails or refuses to act upon the proposal within sixty days of its receipt, the county committee approving the proposal shall certify the proposal and its approval to the state superintendent of public instruction. Upon receipt of a properly certified proposal, the state superintendent of public instruction shall appoint a temporary committee on joint school district organization composed of five persons. The members of the committee shall be selected from the membership of any county committee in this state except that no member shall be appointed from any county in which part of the joint district is situated. Said committee shall meet at the call of the state superintendent of public instruction and organize by electing a chairman and secretary. Thereupon, this temporary committee on joint school district organization shall have jurisdiction of the proposal and shall treat the same as a proposal initiated on its own motion. Said committee shall have the powers and duties imposed upon and required to be performed by a county committee under the provisions of this chapter and the secretary of the committee shall have the powers and duties imposed upon and required to be performed by the educational service district superintendents under the provisions of this chapter. It shall be the duty of the educational service district superintendents of the educational service districts in which the joint school district is situated to assist the temporary committee on joint school district organization by supplying said committee with information from the records and files of their offices and with a proper and suitable place for holding meetings. [1975 1st ex.s. c 275 § 96; 1969 ex.s. c 176 § 132; 1969 ex.s. c 223 § 28A.57.245. Prior: 1959 c 268 § 5. Formerly RCW 28.57.245.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.255 Joint school districts—Special rules for electors voting for directors or ESD board members. The registered voters residing within a joint school district shall be entitled to vote on the office of school director of their district and on the office of their educational service district board member.

Jurisdiction of any such election shall rest with the county auditor of the county administering such joint district as provided in RCW 28A.57.250.

At each general election, or upon approval of a request for a special election as provided for in RCW 29.13.020, such county auditor shall:

(1) See that there shall be at least one polling place in each county;

(2) At least twenty days prior to the elections concerned, certify in writing to the superintendent of the school district the number and location of the polling places established by such auditor for such regular or special elections; and

(3) Do all things otherwise required by law for the conduct of such election.

It is the intention of this section that the qualified electors of a joint school district shall not be forced to go to a different polling place on the same day when other elections are being held to vote for school directors of their district and members of the educational service district board concerned with their school district. [1975 1st ex.s. c 275 § 97; 1973 c 47 § 4; 1969 ex.s. c 176 § 133; 1969 ex.s. c 223 § 28A.57.255. Prior: 1961 c 130 § 23. Formerly RCW 28.57.255.]

Severability—1973 c 47: See note following RCW 28A.57.230.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.290 Joint school districts—Apportionment of tax to be levied. The amount of tax to be levied upon the taxable property of that part of a joint school district lying in one county shall be in such ratio to the whole amount levied upon the property in the entire joint district as the assessed valuation of the property lying in such county bears to the assessed valuation of the property in the entire joint district. After the budget of a joint school district has been prepared in the manner provided by law, the educational service district superintendent of the educational service district to which the joint school district belongs, after deducting estimated receipts from sources other than district taxation, shall apportion to each county in which the territory of the joint district lies its proportionate share of the estimated expenditures of such joint district, which apportionment shall be made upon the same basis as is herein provided for the apportionment of tax levies. He shall then forward to the county auditor of the county to which the joint school district belongs and to the county auditor of each other county, for the board of county commissioners thereof, a certificate setting forth the sum apportioned to that county, together with copies of the certificates forwarded by him to the aforesaid officers of other counties. [1975 1st ex.s. c 275 § 98; 1969 ex.s. c 176 § 135; 1969 ex.s. c 223 § 28A.57.290. Prior: 1947 c 266 § 31; Rem. Supp. 1947 § 4693–50; prior: (i)

1925 ex.s. c 77 § 10; RRS § 4753–10. (ii) 1927 c 286 § 2; RRS § 4753–11. Formerly RCW 28.57.290.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.300 Joint school districts—Levy of tax—Remittance of collections to district treasurer. Upon receipt of the aforesaid certificate, it shall be the duty of the board of county commissioners of each county to levy on all taxable property of that part of the joint school district which lies within the county a tax sufficient to raise the amount necessary to meet the county's proportionate share of the estimated expenditures of the joint district, as shown by the certificate of the educational service district superintendent of the district to which the joint school district belongs. Such taxes shall be levied and collected in the same manner as other taxes are levied and collected, and the proceeds thereof shall be forwarded quarterly by the treasurer of each county, other than the county to which the joint district belongs, to the treasurer of the county to which such district belongs and shall be placed to the credit of said district. The treasurer of the county to which a joint school district belongs is hereby declared to be the treasurer of such district. [1975 1st ex.s. c 275 § 99; 1969 ex.s. c 176 § 136; 1969 ex.s. c 223 § 28A.57.300. Prior: 1947 c 266 § 32; Rem. Supp. 1947 § 4693–51. Formerly RCW 28.57.300.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.312 Directors—Elections—Terms—Number. The governing board of a school district shall be known as the board of directors of the district.

Unless otherwise specifically provided, as in RCW 29.13.060, members of a board of directors shall be elected by ballot by the registered voters of the school district and shall hold office for a term of four years and until their successors are elected and qualified. Terms of school directors shall be staggered, and insofar as possible, not more than a majority of one shall be elected to full terms at any regular election. In case a member or members of a board of directors are to be elected to fill an unexpired term or terms, the ballot shall specify the term for which each such member is to be elected.

Except for a school district of the first class having an enrollment of fifty thousand pupils or more in class AA counties which shall have a board of directors of seven members, the board of directors of every school district of the first class or school district of the second class shall consist of five members. [1975 c 43 § 5; 1973 2nd ex.s. c 21 § 1; 1969 c 131 § 8; 1969 ex.s. c 223 § 28A.57.312. Prior: 1957 c 67 § 1; 1955 c 55 § 11; 1947 c 266 § 10; Rem. Supp. 1947 § 4693–29; prior: 1909 pp 289, 290 §§ 1,2; RRS §§ 4790, 4791. Formerly RCW 28.57.338, 28.58.080.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1973 2nd ex.s. c 21: "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 2nd ex.s. c 21 § 11.] This applies to RCW 28A.57.312, 28A.57.342, 28A.57.344, 28A.57.357, 28A.57.358, 28A.57.425, 28A.57.435, 29.21.180, 29.21.210 and 29.21.230.

28A.57.324 Directors—Meetings. Regular meetings of the board of directors of any school district shall be held monthly or oftener at such a time as the board of directors by resolution shall determine or the bylaws of the board may prescribe. Special or deferred meetings may be held from time to time as circumstances may demand, at the call of the president, if a first class district, or the chairman of the board, if a second class district, or on petition of a majority of the members of the board. All meetings shall be open to the public unless the board shall otherwise order an executive session as provided in RCW 42.32.020. [1975 c 43 § 6; 1969 ex.s. c 223 § 28A.57.324. Prior: (i) 1909 c 97 p 291 § 9; RRS § 4798; prior: 1897 c 118 § 86; 1890 p 389 § 13. Formerly RCW 28.62.090. (ii) 1965 ex.s. c 87 § 1; 1909 c 97 p 299 § 6; RRS § 4816. Formerly RCW 28.63.030. (iii) 1965 ex.s. c 87 § 2; 1909 c 97 p 302 § 6; RRS § 4828. Formerly RCW 28.63.032.]

Reviser's note: RCW 42.32.020 was repealed by 1971 ex.s. c 250 § 15; see chapter 42.30 RCW, the Open Public Meetings Act of 1971.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.326 Directors—Filling vacancies. In case of a vacancy from any cause on the board of directors of a school district other than a reconstituted board resulting from reorganized school districts, a majority of the legally established number of board members shall fill such vacancy by appointment: *Provided*, That should there exist fewer board members on the board of directors of a school district than constitutes a majority of the legally established number of board members, the educational service district board members of the district in which the school district is located by the vote of a majority of its legally established number of board members shall appoint a sufficient number of board members to constitute a legal majority on the board of directors of such school district; and the remaining vacancies on such board of directors shall be filled by such board of directors in accordance with the provisions of this section: *Provided further*, That should any board of directors for whatever reason fail to fill a vacancy within ninety days from the creation of such vacancy, the members of the educational service district board of the district in which the school district is located by majority vote shall fill such vacancy.

Appointees to fill vacancies on the board of directors of school districts shall meet the requirements provided by law for school directors and shall serve until the next regular school district election, at which time a successor shall be elected for the unexpired term. [1975 1st ex.s. c 275 § 100; 1971 c 53 § 2; 1969 ex.s. c 176 § 156; 1969 ex.s. c 223 § 28A.57.326. Prior: (i) 1909 c 97 p 292 § 12; RRS 4801; prior: 1907 c 31 § 3; 1897 c 118 § 89; 1890 p 390 § 16. Formerly RCW 28.62.120. (ii) 1909 c 97 p 298 § 3; RRS § 4813. Formerly RCW 28.63.020. (iii) 1909 c 97 p 301 § 3; RRS § 4825. Formerly RCW

28.63.022. (iv) 1959 c 216 § 7, part; 1955 c 157 § 14, part; prior: 1909 p 281 § 4, part; 1903 c 104 § 14, part; 1899 c 142 § 6, part; 1897 c 118 § 33, part; 1891 c 127 § 3, part; 1890 p 355 § 11, part; RRS § 4770, part. Formerly RCW 28.19.060, part.]

Severability—1971 c 53: See note following RCW 28A.57.260.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.328 Directors—Number and terms of in new second class districts (as amended by 1975 c 43). Upon the establishment of a new school district of the second class, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the *educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in any such new second class school district, they shall become directors of said district, and the *educational service district board shall appoint the number of additional directors required to constitute a board of five directors for the new second class district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than five in a second class district, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of other districts of the same class and the directors thereof shall serve until the regular school election following the next regular school election in the district at which election their successors shall be elected and qualified. At such election, no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. Directors thereafter elected and qualified shall serve such terms as provided for in RCW 28A.57.312, as now or hereafter amended. [1975 c 43 § 7; 1971 c 67 § 1; 1969 ex.s. c 176 § 137; 1969 ex.s. c 223 § 28A.57.328. Prior: 1959 c 268 § 7, part; 1947 c 266 § 24, part; Rem. Supp. 1947 § 4693-43, part. Formerly RCW 28.57.350, part.]

***Reviser's note:** "educational service district superintendent" and "educational service district board" are herein substituted for "intermediate school district superintendent" and "intermediate school district board" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.328 Directors—Number and terms of in new second or third class districts (as amended by 1975 1st ex.s. c 275). Upon the establishment of a new school district of the second or third class, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than three such directors reside in any such new third class district or if fewer than five such directors reside in any such new second class school district, they shall become directors of said district, and the educational service district board shall appoint the number of additional directors required to constitute a board of three directors for the new third class district or five directors for the new second class district, as the case may be. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than three in a third class district or less than five in a second class district, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of other districts of the same class and the directors thereof shall serve until the regular school election following the next regular school election in the district at which election their successors shall be elected and qualified. At such election in third class districts, no more than three directors shall be elected at large by the electors of the school district, one for a term of two years and two for a term of four years. At such election in second class districts, no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. Directors thereafter elected and qualified shall serve such terms

as provided for in RCW 28A.57.312. [1975 1st ex.s. c 275 § 101; 1971 c 67 § 1; 1969 ex.s. c 176 § 137; 1969 ex.s. c 223 § 28A.57.328. Prior: 1959 c 268 § 7, part; 1947 c 266 § 24, part; Rem. Supp. 1947 § 4693-43, part. Formerly RCW 28.57.350, part.]

Reviser's note: RCW 28A.57.328 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1971 c 67: "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 67 § 10.] This applies to RCW 28A.57.328, 28A.57.332, 28A.57.342, 28A.57.344, 28A.57.355, 28A.57.356, 28A.57.357 and 28A.57.358.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.329 Directors—Number and terms of in new second class districts due to elimination of third class district classification. With the implementation of chapter 43, Laws of 1975, if upon a change of classification three directors of a former third class school district constitute the board of directors of a new second class school district for which a board of five directors is required by law, the three directors of such school district shall continue to serve for the terms for which they were elected; two additional directors shall be appointed for the district in the manner provided by law for filling a vacancy on the board of other districts of the same class; and the aforesaid five directors shall thereafter constitute the board of directors of the district. The additional directors so appointed shall serve until the next regular school election in the district and until their successors are elected and qualified, at which election their successors shall be elected, one for a term of two years and one for a term of four years. Directors thereafter elected and qualified shall serve such terms as provided for in RCW 28A.57.312, as now or hereafter amended. [1975 c 43 § 34.]

Reviser's note: Disposition of sections of chapter 43, Laws of 1975, see notes following RCW 28A.57.140.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.332 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.57.342 Directors' districts in certain school districts—Submittal of proposition at formation election. Whenever an election shall be held for the purpose of securing the approval of the voters for the formation of a new school district other than a school district of the first class having an enrollment of fifty thousand pupils or more in class AA counties, if requested by one of the boards of directors of the school districts affected, there shall also be submitted to the voters at the same election a proposition to authorize the county committee to divide the school district, if formed, into directors' districts. Such director districts in second class districts, if approved, shall not become effective until the regular school election following the next regular school election at which time a new board of directors shall be elected as provided in RCW 28A.57.328, as now or hereafter amended. Such director districts in first class

districts, if approved, shall not become effective until the next regular school election at which time a new board of directors shall be elected as provided in RCW 28A.57.355, 28A.57.356, and 28A.57.357, as now or hereafter amended. Each of the five directors shall be elected from among the residents of the respective director district by the electors of the entire school district. [1975 c 43 § 8; 1973 2nd ex.s. c 21 § 2; 1971 c 67 § 2; 1969 ex.s. c 223 § 28A.57.342. Prior: 1959 c 268 § 4. Formerly RCW 28.57.342.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

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

Severability—1971 c 67: See note following RCW 28A.57.328.

28A.57.344 Directors' districts in certain school districts—Election to authorize division in school districts not already divided into directors' districts. The board of directors of every school district other than a school district of the first class having an enrollment of fifty thousand pupils or more in class AA counties which is not divided into directors' districts may submit to the voters at any regular school district election a proposition to authorize the county committee to divide the district into directors' districts. If a majority of the votes cast on the proposition shall be affirmative, the county committee shall proceed to divide the district into directors' districts. Such director districts, if approved, shall not become effective until the next regular school election when a new five member board of directors shall be elected, one from each of five director districts from among the residents of the respective director district by the electors of the entire district, two for a term of two years and three for a term of four years, unless such district elects its directors for six years, in which case, one for a term of two years, two for a term of four years, and two for a term of six years. [1975 c 43 § 9; 1973 2nd ex.s. c 21 § 3; 1971 c 67 § 8; 1969 ex.s. c 223 § 28A.57.344. Prior: 1959 c 268 § 3. Formerly RCW 28.57.344.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

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

Severability—1971 c 67: See note following RCW 28A.57.328.

28A.57.355 Directors—Number and terms of in first class districts containing no former first class district. Upon the establishment of a new school district of the first class as provided for in RCW 28A.57.342 containing no former first class district, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in such new district, they shall become directors of said district and the educational service district board shall appoint the number of additional directors to constitute a board of five directors for the

district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: *Provided*, That if such first class district is in a class AA or class A county and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years. [1975 1st ex.s. c 275 § 102; 1971 c 67 § 3.]

Severability—1971 c 67: See note following RCW 28A.57.328.

28A.57.356 Directors—Number and terms of in first class districts containing only one former first class district (as amended by 1975 c 43). Upon the establishment of a new school district of the first class as provided for in RCW 28A.57.342, as now or hereafter amended, containing only one former first class district, the directors of the former first class district and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the *educational service district superintendent and shall constitute the board of directors of the new district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: *Provided*, That if such first class district is in a class AA or class A county and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years. [1975 c 43 § 10; 1971 c 67 § 4.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.356 Directors—Number and terms of in first class districts containing only one former first class district (as amended by 1975 1st ex.s. c 275). Upon the establishment of a new school district of the first class as provided for in RCW 28A.57.342 containing only one former first class district, the directors of the former first class district and two directors representative of former second class districts selected by a majority of the board members of former second class districts and one director representative of former third class districts, selected by a majority of the board members of former third class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors

of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: *Provided*, That if such first class district is in a class AA or class A county and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years. [1975 1st ex.s. c 275 § 103; 1971 c 67 § 4.]

Reviser's note: RCW 28A.57.356 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1971 c 67: See note following RCW 28A.57.328.

28A.57.357 Directors—Number and terms of in first class districts containing more than one former first class district (as amended by 1975 c 43). Upon the establishment of a new school district of the first class as provided for in RCW 28A.57.342, as now or hereafter amended, containing more than one former first class district, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the *educational service district superintendent and shall constitute the board of directors of the new district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all of the powers and authority conferred by law upon boards of first class districts until the next regular school election and until their successors are elected and qualified. At such election other than districts electing directors for six-year terms as provided in RCW 29.13-.060, five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. At such election for districts electing directors for six years other than districts having an enrollment of fifty thousand pupils or more and electing directors for six year terms, five directors shall be elected either at large or by director districts, as the case may be, one for a term of two years, two for a term of four years, and two for a term of six years. [1975 c 43 § 11; 1973 2nd ex.s. c 21 § 10; 1973 c 19 § 1; 1971 c 67 § 5.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.357 Directors—Number and terms of in first class districts containing more than one former first class district (as amended by 1975 1st ex.s. c 275). Upon the establishment of a new school district of the first class as provided for in RCW 28A.57.342 containing more than one former first class district, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts and one director representative of former third class districts selected by a majority of the board members of former third class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all of the powers and authority conferred by law upon boards of first class districts until the next regular school election and until their

successors are elected and qualified. At such election other than districts electing directors for six-year terms as provided in RCW 29.13.060, five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. At such election for districts electing directors for six years other than districts having an enrollment of fifty thousand pupils or more and electing directors for six year terms, five directors shall be elected either at large or by director districts, as the case may be, one for a term of two years, two for a term of four years, and two for a term of six years. [1975 1st ex.s. c 275 § 104; 1973 2nd ex.s. c 21 § 10; 1973 c 19 § 1; 1971 c 67 § 5.]

Reviser's note: RCW 28A.57.357 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

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

Severability—1971 c 67: See note following RCW 28A.57.328.

28A.57.358 Directors—Number and terms of in new first class district having enrollment of 50,000 in class AA counties (as amended by 1975 c 43). Upon the establishment of a new school district of the first class having an enrollment of fifty thousand pupils or more in class AA counties, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the *educational service district superintendent and shall constitute the board of directors of the new district. Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and duties conferred by law upon boards of first class districts, until the next regular school election and until their successors are elected and qualified. Such duties shall include establishment of new director districts as provided for in RCW 28A.57.425. At the next regular school election seven directors shall be elected by director districts, two for a term of two years, two for a term of four years and three for a term of six years. Thereafter their terms shall be as provided in RCW 29.13.060.

Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law. [1975 c 43 § 12; 1973 2nd ex.s. c 21 § 4; 1971 c 67 § 6.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.358 Directors—Number and terms of in new first class district having enrollment of 50,000 in class AA counties (as amended by 1975 1st ex.s. c 275). Upon the establishment of a new school district of the first class having an enrollment of fifty thousand pupils or more in class AA counties, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts and one director representative of former third class districts selected by a majority of the board members of former third class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and duties conferred by law upon boards of first class districts, until the next regular school election and until their successors are elected and qualified. Such duties shall include establishment of new director districts as provided for in RCW 28A.57.425. At the next regular school election seven directors shall be elected by director districts, two for a term of two years, two for a term of four years and three for a term of six years. Thereafter their terms shall be as provided in RCW 29.13.060.

Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law. [1975 1st ex.s. c 275 § 105; 1973 2nd ex.s. c 21 § 4; 1971 c 67 § 6.]

Reviser's note: RCW 28A.57.358 was amended twice at the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

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

Severability—1971 c 67: See note following RCW 28A.57.328.

28A.57.390 Directors—Map and record of directors' districts. The educational service district superintendent shall prepare and keep in his office (1) a map showing the boundaries of the directors' districts of all school districts in or belonging to his educational service district that are so divided, and (2) a record of the action taken by the county committee in establishing such boundaries. [1975 1st ex.s. c 275 § 106; 1969 ex.s. c 176 § 140; 1969 ex.s. c 223 § 28A.57.390. Prior: 1947 c 266 § 38; Rem. Supp. 1947 § 4693-57. Formerly RCW 28.57.390.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.415 Directors—Dissolution of directors' districts (as amended by 1975 c 43). Upon receipt of a written petition by an *educational service district superintendent signed by at least twenty percent of the registered voters of a school district theretofore divided into directors' districts after a majority vote thereon in accordance with RCW 28A.57.050(4), as now or hereafter amended, which petition shall request a return to the system of directors running at large within the district, the superintendent, after formation of the question to be submitted to the voters, shall give notice thereof to the county auditor who shall call and hold a special election of the voters of the entire school district to approve or reject such proposal, such election to be called, conducted and the returns canvassed as in regular school district elections.

If approval of a majority of those registered voters voting in said election is acquired, at the expiration of terms of the incumbent directors of such school district their successors shall be elected at large. [1975 c 43 § 13; 1971 c 48 § 27; 1969 ex.s. c 223 § 28A.57.415.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.57.415 Directors—Dissolution of directors' districts (as amended by 1975 1st ex.s. c 275). Upon receipt of a written petition by an educational service district superintendent signed by at least twenty percent of the registered voters of a first or second class school district theretofore divided into directors' districts after a majority vote thereon in accordance with RCW 28A.57.050(4), which petition shall request a return to the system of directors running at large within the district, the superintendent, after formation of the question to be submitted to the voters, shall give notice thereof to the county auditor who shall call and hold a special election of the voters of the entire school district to approve or reject such proposal, such election to be called, conducted and the returns canvassed as in regular school district elections.

If approval of a majority of those registered voters voting in said election is acquired, at the expiration of terms of the incumbent directors of such school district their successors shall be elected at large. [1975 1st ex.s. c 275 § 107; 1971 c 48 § 27; 1969 ex.s. c 223 § 28A.57.415.]

Reviser's note: RCW 28A.57.415 was amended twice at the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.58 PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

Sections

- 28A.58.045 Real property—Sale—Appraisal required—Broker services—Real estate sales contracts, limitation.
- 28A.58.046 Repealed.
- 28A.58.0461 Real property—Sale—Use of proceeds.
- 28A.58.050 Removing child from school grounds during school hours—Procedure.
- 28A.58.100 Hiring and discharging employees—Leaves for employees—Seniority and leave benefits, retention upon transfers between schools.
- 28A.58.101 Government of schools, pupils, employees, rules and regulations for—Due process guarantees—Enforcement.
- 28A.58.103 Instructional materials—Instructional materials committee—Disposition of used or obsolete material.
- 28A.58.113 Fees for optional noncredit extracurricular events—Disposition.
- 28A.58.115 Associated student bodies—Powers and responsibilities affecting (Provisions suspended until July 1, 1976).
- 28A.58.120 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting. (Effective July 1, 1976.)
- 28A.58.137 Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal (as amended by 1975 1st ex.s. c 137).
- 28A.58.137 Employment of superintendent—Superintendent's qualifications, general powers, term (as amended by 1975 1st ex.s. c 254).
- 28A.58.150 Superintendent's duties.
- 28A.58.225 Education of pupils in another district.
- 28A.58.242 Appeal from certain decisions to deny student's request to attend nonresident district—Procedure.
- 28A.58.243 Appeal from certain decisions to deny student's request to attend nonresident district—Apportionment credit.
- 28A.58.247 Community education programs—Restrictions.
- 28A.58.420 Liability, life, health, health care, accident, disability and salary insurance authorized—Premiums.
- 28A.58.427 Liability insurance for officers and employees authorized.
- 28A.58.430 Investment of funds, including funds received by ESD—Authority—Procedure.
- 28A.58.450 Adverse change in contract status of certificated employee—Notice—Probable cause—Hearing—Decision.
- 28A.58.460 Adverse change in contract status of certificated employee—Notice of judicial appeal—Service—Filing—Contents.
- 28A.58.470 Adverse change in contract status of certificated employee—Certification and filing with court of transcript by school board.
- 28A.58.480 Adverse change in contract status of certificated employee—Appeal to be heard de novo and expeditiously.
- 28A.58.490 Adverse change in contract status of certificated employee—Costs, attorney's fee and damages on appeal.
- 28A.58.500 Adverse change in contract status of certificated employee—Appeal to supreme court or court of appeals.
- 28A.58.510 Adverse change in contract status of certificated employee—Other appeal statutes not applicable.
- 28A.58.515 Direct judicial appeals in lieu of hearings provided in RCW 28A.58.450 and 28A.67.070.
- 28A.58.530 Information and research services.
- 28A.58.560 Tax deferred annuities.

- 28A.58.603 Change of district name—Procedure upon voter approval—Recording—Notice to interested institutions.
- 28A.58.620 Actions against officers, employees or agents of school districts and educational service districts—Defense, costs, fees—Payment of obligation.
- 28A.58.630 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless.
- 28A.58.740 Deferred compensation plan for district employees—Limitations.

Annual distribution of funds according to weighted enrollment—Pupil/teacher ratio standard: RCW 28A.41.130.

Beneficial interests in contracts prohibited—Second and third class districts—Exception: RCW 28A.60.355.

Educational employment relations act: Chapter 41.59 RCW.

Housing for superintendent—Second and third class districts: RCW 28A.60.350–28A.60.352.

Learning/language disabilities, screening for: RCW 28A.03.300–28A.03.320.

Learning resources services: RCW 28A.03.095 and 28A.04.134.

Professional certification not to be required of superintendent, deputy or assistant superintendents: RCW 28A.02.260.

Rules and regulations accepting national guard high school career training: RCW 28A.04.133.

28A.58.045 Real property—Sale—Appraisal required—Broker services—Real estate sales contracts, limitation. The board of directors of any school district of this state may:

(1) Sell for cash, at public or private sale, and convey by deed all interest of the district in or to any of the real property of the district which is no longer required for school purposes if the value thereof is thirty-five thousand dollars or less; and

(2) Purchase real property for the purpose of locating thereon and affixing thereto any house or houses and appurtenant buildings removed from school sites owned by the district and sell for cash, at public or private sale, and convey by deed all interest of the district in or to such acquired and improved real property if the value of any single parcel thereof is thirty-five thousand dollars or less.

Any sale of school district real property authorized pursuant to this section shall be preceded by a market value appraisal by three licensed real estate brokers selected by the board of directors and no sale shall take place if the sale price would be less than ninety percent of such appraised market value: *Provided*, That if the property has been on the market for three years or more the property may be sold for not less than seventy-five percent of the appraised value with the unanimous consent of the board.

If the appraised value of any parcel of real property considered for sale is found by the board of directors to be greater than thirty-five thousand dollars, the question of the sale thereof shall be submitted to a vote of the voters of the district, either at a general or special election called for that purpose. If a majority of the votes cast thereat favor the sale of such real property the board may make the sale. The sale may be made at public auction or by other means consistent with realizing the highest sale price.

If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and

greater value realized through use of the services of licensed real estate brokers, a contract for such services may be negotiated and concluded: *Provided*, That the fee or commissions charged for any broker services shall not exceed seven percent of the resulting sale value for a single parcel: *Provided further*, That any licensed real estate broker selected by the board to appraise the market value of a parcel of property to be sold may not be a party to any contract with the school district to sell such parcel of property for a period of three years after the appraisal.

If in the judgment of the board of directors of any district the sale of real property of the district not needed for school purposes would be facilitated and greater value realized through sale on contract terms, a real estate sales contract may be executed between the district and buyer: *Provided*, That the terms and conditions of any such sales contract must comply with rules and regulations of the state board of education, herein authorized, governing school district real property contract sales. [1975 1st ex.s. c 243 § 1; 1969 ex.s. c 223 § 28A.58.045. Prior: 1963 c 67 § 1; 1953 c 225 § 1. Formerly RCW 28.58.045.]

28A.58.046 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.58.0461 Real property—Sale—Use of proceeds. The proceeds from any sale of school district real property by a board of directors shall be used solely for the purposes of school district bond retirement, real property improvements, and the equipping or furnishing of school district buildings or grounds. [1975 1st ex.s. c 243 § 2.]

28A.58.050 Removing child from school grounds during school hours—Procedure. The board of directors of each school district by rule or regulation shall set forth proper procedure to ensure that each school within their district is carrying out district policy providing that no child will be removed from any school grounds or building thereon during school hours except by a person so authorized by a parent or legal guardian having legal custody thereof: *Provided*, That such rules and regulations need not be applicable to any child in grades nine through twelve. [1975 1st ex.s. c 248 § 1.]

28A.58.100 Hiring and discharging employees—Leaves for employees—Seniority and leave benefits, retention upon transfers between schools. Every board of directors, unless otherwise specially provided by law, shall:

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and noncertificated employees, and fix, alter, allow and order paid their salaries and compensation;

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or noncertification qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in

positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and noncertificated employees, and with such compensation as the board of directors prescribe: *Provided*, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(a) For such persons under contract with the school district for a full year, at least ten days;

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(d) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days, and such accumulated time may be taken at any time during the school year;

(e) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(f) Accumulated leave under this proviso not taken at the time such person retires or ceases to be employed in the public schools shall not be compensable except in the following manner: Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire;

(g) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

(h) Leave accumulated by a person in a district prior to leaving said district may, under rules and regulations of the board, be granted to such person when he returns to the employment of the district.

When any teacher or other certificated employee leaves one school district within the state and commences employment with another school district within the state, he shall retain the same seniority, leave benefits and other benefits that he had in his previous position. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service. [1975 1st ex.s. c 275 § 108; 1972 ex.s. c 10 § 3. Prior: 1971 ex.s. c 203 § 1; 1971 c 48 § 28; 1969 ex.s. c 283 § 27; 1969 ex.s. c 223 § 28A.58.100; prior: (i) 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 §

3, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part; prior: 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.58.100(1) and (3), part, and (15). (ii) 1965 ex.s. c 49 § 3. Formerly RCW 28.67.076.]

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

28A.58.101 Government of schools, pupils, employees, rules and regulations for—Due process guarantees—Enforcement. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules and regulations prescribed by the superintendent of public instruction and the state board of education for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules and regulations regarding pupil conduct, discipline, and rights. Such rules and regulations shall not be inconsistent with law or the rules and regulations of the superintendent of public instruction or the state board of education and shall include such substantive and procedural due process guarantees as prescribed by the state board of education under RCW 28A.04.132. Commencing with the 1976–77 school year, when such rules and regulations are made available to each pupil, teacher and parent, they shall be accompanied by a detailed description of rights, responsibilities and authorities of teachers with respect to pupils as prescribed by state and local law, rule and regulation.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.04.132. [1975 1st ex.s. c 254 § 1; 1971 ex.s. c 268 § 1; 1969 ex.s. c 223 § 28A.58.101. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(2), (6).]

Severability—1975 1st ex.s. c 254: See note following RCW 28A.02.260.

28A.58.103 Instructional materials—Instructional materials committee—Disposition of used or obsolete material. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Prepare, negotiate, set forth in writing and adopt, policy relative to the selection of instructional materials. Such policy shall:

(a) State the school district's goals and principles relative to instructional materials;

(b) Delegate responsibility for the preparation and recommendation of teachers' reading lists and specify the procedures to be followed in the selection of all instructional materials including text books;

(c) Establish an instructional materials committee to be appointed, with the approval of the school board, by

the school district's chief administrative officer. This committee shall consist of representative members of the district's professional staff, including representation from the district's curriculum development committees, and, in the case of districts which operate elementary school(s) only, the educational service district superintendent, one of whose responsibilities shall be to assure the correlation of those elementary district adoptions with those of the high school district(s) which serve their children;

(d) Provide for terms of office for members of the instructional materials committee;

(e) Provide a system for receiving, considering and acting upon written complaints regarding instructional materials used by the school district;

(f) Provide free text books, supplies and other instructional materials to be loaned to the pupils of the school, when, in its judgment, the best interests of the district will be subserved thereby and prescribe rules and regulations to preserve such books, supplies and other instructional materials from unnecessary damage.

Recommendation of instructional materials shall be by the district's instructional materials committee in accordance with district policy. Approval shall be by the local school district's board of directors.

Districts may pay the necessary travel and subsistence expenses for expert counsel from outside the district. In addition, the committee's expenses incidental to visits to observe other districts' selection procedures may be reimbursed by the school district.

Districts may, within limitations stated in board policy, use and experiment with instructional materials for a period of time before general adoption is formalized.

Within the limitations of board policy, a school district's chief administrator may purchase instructional materials to meet deviant needs or rapidly changing circumstances.

(2) Establish a depreciation scale for determining the value of texts which students wish to purchase.

Local boards of school directors may declare selected instructional materials obsolete and dispose of them by sale to the highest bidder, following public notice in a newspaper of general circulation in the area. [1975 1st ex.s. c 275 § 109; 1971 c 48 § 29; 1969 ex.s. c 223 § 28A.58.103. Prior: 1969 c 53 § 1, part; 1967 ex.s. c 29 § 1, part; 1967 c 12 § 1, part; 1965 ex.s. c 49 § 1, part; 1963 c 104 § 1, part; 1963 c 5 § 1, part; 1961 c 305 § 1, part; 1961 c 237 § 1, part; 1961 c 66 § 1, part; 1955 c 68 § 2, part. Formerly RCW 28.58.100(8) and (9).]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.58.113 Fees for optional noncredit extracurricular events—Disposition. The board of directors of any common school district may establish and collect a fee from students and nonstudents as a condition to their attendance at any optional noncredit extracurricular event of the district which is of a cultural, social, recreational or athletic nature: *Provided*, That in so establishing such fee or fees, the district shall adopt regulations for waiving and reducing such fees in the cases of those students whose families, by reason of their low income, would have difficulty in paying the

entire amount of such fees. An optional comprehensive fee may be established and collected for any combination or all of such events or, in the alternative, a fee may be established and collected as a condition to attendance at any single event. Fees collected pursuant to this section shall be deposited in the associated student body program fund of the school district, and may be expended to defray the costs of optional noncredit extracurricular events of such a cultural, social, recreational or athletic nature, or to otherwise support the activities and programs of associated student bodies. [1975 1st ex.s. c 284 § 1.]

Severability—1975 1st ex.s. c 284: "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 its provisions to other persons or circumstances is not affected." [1975 1st ex.s. c 284 § 4.] This applies to RCW 28A.58.113, 28A.58.115 and 28A.58.120.

28A.58.115 Associated student bodies—Powers and responsibilities affecting (Provisions suspended until July 1, 1976). As used in this section, an "associated student body" means the formal organization of the students of a school formed with the approval of and regulation by the board of directors of the school district in conformity to the rules and regulations promulgated by the superintendent of public instruction.

The superintendent of public instruction, after consultation with appropriate school organizations and students, shall promulgate rules and regulations to designate the powers and responsibilities of the boards of directors of the school districts of the state of Washington in developing efficient administration, management, and control of moneys, records, and reports of the associated student bodies organized in the public schools of the state.

The application of the provisions of this section is suspended until July 1, 1976. [1975 1st ex.s. c 284 § 3; 1973 c 52 § 1.]

Severability—1975 1st ex.s. c 284: See note following RCW 28A.58.113.

28A.58.120 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting. (Effective July 1, 1976.) There is hereby created a fund on deposit with each county treasurer for each school district of the county having an associated student body as defined in RCW 28A.58.115. Such fund shall be known as the associated student body program fund. Rules and regulations promulgated by the superintendent of public instruction under RCW 28A.58.115 shall require separate accounting for each associated student body's transactions in the school district's associated student body program fund.

All moneys generated through the programs and activities of any associated student body shall be deposited in the associated student body program fund. Such funds may be invested for the sole benefit of the associated student body program fund in items enumerated in RCW 28A.58.440 and the county treasurer may assess a fee as provided therein. Disbursements from such fund shall be under the control and supervision, and with the

approval, of the board of directors of the school district, and shall be by warrant as provided in chapter 28A.66 RCW: *Provided*, That in no case shall such warrants be issued in an amount greater than the funds on deposit with the county treasurer in the associated student body program fund. To facilitate the payment of minor or unexpected obligations, or obligations which require immediate payment, an imprest bank account or accounts may be created and replenished from the associated student body program fund.

The associated student body program fund shall be budgeted by the associated student body, subject to approval by the board of directors of the school district. All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Notwithstanding the provisions of RCW 43.09.210, it shall not be mandatory that expenditures from the district's general fund in support of associated student body programs and activities be reimbursed by payments from the associated student body program fund.

The effective date of this section shall be July 1, 1976. [1975 1st ex.s. c 284 § 2.]

Severability—1975 1st ex.s. c 284: See note following RCW 28A.58.113.

28A.58.137 Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal (as amended by 1975 1st ex.s. c 137). In all districts the board of directors shall elect a superintendent who shall hold a valid teacher's certificate and such other credentials as required by the state board of education. He shall have supervision over the several departments of the schools thereof and carry out such other powers and duties as prescribed by law. Notwithstanding the provisions of RCW 28A.58.100(1), the board may contract with such superintendent for a term not to exceed three years when deemed in the best interest of the district. The right to renew a contract of employment with any school superintendent shall rest solely with the discretion of the school board employing such school superintendent. Regarding such renewal contracts of school superintendents the provisions of RCW 28A.58.450 through 28A.58.515, 28A.67.065, 28A.67.070, 28A.67.074 and 28A.88.010 shall be inapplicable. [1975 1st ex.s. c 137 § 1; 1969 ex.s. c 223 § 28A.58.137. Prior: (i) 1909 c 97 p 300 § 11; RRS § 4821. Formerly RCW 28.63.060. (ii) 1909 c 97 p 302 § 8; RRS § 4830. Formerly RCW 28.63.062. (iii) 1909 c 97 p 302 § 9; RRS § 4831. Formerly RCW 28.63.064. (iv) 1909 c 97 p 290 § 4, part; RRS § 4793, part. Formerly RCW 28.62.040, part.]

28A.58.137 Employment of superintendent—Superintendent's qualifications, general powers, term (as amended by 1975 1st ex.s. c 254). In all districts the board of directors shall elect a superintendent who shall have such qualifications as the local school board alone shall determine. He shall have supervision over the several departments of the schools thereof and carry out such other powers and duties as prescribed by law. Notwithstanding the provisions of RCW 28A.58.100(1), the board may contract with such superintendent for a term not to exceed three years when deemed in the best interest of the district. [1975 1st ex.s. c 254 § 2; 1969 ex.s. c 223 § 28A.58.137. Prior: (i) 1909 c 97 p 300 § 11; RRS § 4821. Formerly RCW 28.63.060. (ii) 1909 c 97 p 302 § 8; RRS § 4830. Formerly RCW 28.63.062. (iii) 1909 c 97 p 302 § 9; RRS § 4831. Formerly RCW 28.63.064. (iv) 1909 c 97 p 290 § 4, part; RRS § 4793, part. Formerly RCW 28.62.040, part.]

Reviser's note: RCW 28A.58.137 was amended twice during the 1975 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 session, see RCW 1.12.025.

Severability—1975 1st ex.s. c 254: See note following RCW 28A.02.260.

Professional certification not to be required of superintendents, deputy or assistant superintendents: RCW 28A.02.260.

28A.58.150 Superintendent's duties. In addition to such other duties as a district school board shall prescribe the school district superintendent shall:

(1) Attend all meetings of the board of directors and cause to have made a record as to the proceedings thereof.

(2) Keep such records and reports and in such form as the district board of directors require or as otherwise required by law or rule or regulation of higher administrative agencies and turn the same over to his successor.

(3) Keep accurate and detailed accounts of all receipts and expenditures of school money. At each annual school meeting the superintendent must present his record book of board proceedings for public inspection, and shall make a statement of the financial condition of the district and such record book must always be open for public inspection.

(4) Take annually in May of each year a census of all persons between the ages of four and twenty who were bona fide residents of the district on the first day of May of that year. He shall designate the name and sex of each child, and the date of its birth; the number of weeks it has attended school during the school year, its post office address, and such other information as the superintendent of public instruction shall desire. Parents or guardians may be required to verify as to the correctness of this report. He shall also list separately all defective persons between the ages of four and twenty and give such information concerning them as may be required by the superintendent of public instruction. The board of directors may employ additional persons and compensate the same to aid the superintendent in carrying out such census.

(5) Make to the educational service district superintendent on or before the fifteenth day of July his annual report verified by affidavit upon forms to be furnished by the superintendent of public instruction. It shall contain such items of information as said superintendent of public instruction shall require, including the following: A full and complete report of all children enumerated under subsection (4) above; the number of schools or departments taught during the year; the number of children, male and female, enrolled in the school, and the average daily attendance; the number of teachers employed, and their compensation per month; the number of days school was taught during the past school year, and by whom; and the number of volumes, if any, in the school district library; the number of school houses in the district, and the value of them; and the aggregate value of all school furniture and apparatus belonging to the district. The superintendent shall keep on file a duplicate copy of said report.

(6) Give such notice of all annual or special elections as otherwise required by law; also give notice of the regular and special meetings of the board of directors.

(7) Report to the educational service district superintendent at the beginning of each term of school the name of every teacher and their proposed length of

term, and supply each such teacher with school registers furnished by the educational service district superintendent.

(8) Sign all orders for warrants ordered to be issued by the board of directors.

(9) Carry out all orders of the board of directors made at any regular or special meeting. [1975 1st ex.s. c 275 § 110; 1971 c 48 § 30; 1969 ex.s. c 223 § 28A.58.150. Prior: 1909 c 97 p 304 § 2; RRS § 4842; prior: 1907 c 163 § 3; 1899 c 142 § 10; 1897 c 118 § 49; 1893 c 107 § 5; 1891 c 127 § 12; 1890 p 367 § 34; Code 1881 §§ 3194, 3195, 3196, 3197; 1873 p 428 §§ 10, 11, 12, 13. Formerly RCW 28.58.150.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.58.225 Education of pupils in another district. A local district may be authorized by the educational service district superintendent to transport and educate its pupils in another district for one year, either by payment of a compensation agreed upon by such school districts, or under other terms mutually satisfactory to the districts concerned when this will afford better educational facilities for the pupils and when a saving may be effected in the cost of education. Such authorization may be extended for an additional year at the discretion of the educational service district superintendent. [1975 1st ex.s. c 275 § 111; 1969 ex.s. c 176 § 141; 1969 ex.s. c 223 § 28A.58.225. Prior: 1965 ex.s. c 154 § 10. Formerly RCW 28.24.110.]

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.58.242 Appeal from certain decisions to deny student's request to attend nonresident district—Procedure. The decision of a school district within which a student under the age of twenty-one years resides or of a school district within which such a student under the age of twenty-one years was last enrolled and is considered to be a resident for attendance purposes by operation of law, to deny such student's request for release to a nonresident school district by an agreement pursuant to RCW 28A.58.240 may be appealed to the state board of education: *Provided*, That the school district of proposed transfer is willing to accept the student.

The state board of education or its designee shall hear the appeal and examine the evidence. The state board of education may order the resident district to release such a student who is under the age of twenty-one years in the event it finds that a special hardship or detrimental condition of a financial, educational, safety or health nature affecting the student or the student's immediate family or custodian may likely be significantly alleviated as a result of the transfer. The decision of the state board of education may be appealed to superior court pursuant to chapter 34.04 RCW, the administrative procedure act, as now or hereafter amended. [1975 1st ex.s. c 66 § 1.]

Severability—1975 1st ex.s. c 66: "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." [1975 1st ex.s. c 66 § 4.] This

applies to RCW 28A.58.242, 28A.58.243 and the repeal of RCW 28A.48.040 and 28A.48.050.

28A.58.243 Appeal from certain decisions to deny student's request to attend nonresident district—Apportionment credit.

If a student under the age of twenty-one years is allowed to enroll in any common school outside the school district within which the student resides or a school district of which the student is considered to be a resident for attendance purposes by operation of law, the student's attendance shall be credited to the nonresident school district of enrollment for state apportionment and all other purposes. [1975 1st ex.s. c 66 § 2.]

Severability—1975 1st ex.s. c 66: See note following RCW 28A.58.242.

28A.58.247 Community education programs—Restrictions.

Cooperation mandated between common school and community college districts: RCW 28C.04.070.

28A.58.420 Liability, life, health, health care, accident, disability and salary insurance authorized—Premiums.

Deductions from retirement allowances for medical, hospital or other health care: RCW 41.32.680.

Retirement allowance deductions for health care benefit plans: RCW 41.04.235.

28A.58.427 Liability insurance for officers and employees authorized. See RCW 36.16.138.

28A.58.430 Investment of funds, including funds received by ESD—Authority—Procedure. Any common school district board of directors is empowered to direct and authorize, and to delegate authority to an employee of the common school district or the *educational service district to direct and authorize, the county treasurer to invest funds described in RCW 28A.58.435 and 28A.58.440 and funds from state and federal sources as are then or thereafter received by the *educational service district, and such funds from county sources as are then or thereafter received by the county treasurer, for distribution to the common school districts. Funds from state, county and federal sources which are so invested may be invested only for the period the funds are not required for the immediate necessities of the common school district as determined by the school district board of directors or its delegatee, and shall be invested in behalf of the common school district pursuant to the terms of RCW 28A.58.435 or 28A.58.440, as now or hereafter amended, as the nature of the funds shall dictate. A grant of authority by a common school district pursuant to this section shall be by resolution of the board of directors and shall specify the duration and extent of the authority so granted. Any authority delegated to an *educational service district pursuant to this section may be redelegated pursuant to RCW 28A.21.095, as now or hereafter amended. [1975 c 47 § 1.]

***Reviser's note:** "educational service district" is herein substituted for "intermediate school district" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—1975 c 47: "This act shall take effect on January 1, 1976." [1975 c 47 § 2.] This applies to RCW 28A.58.430.

28A.58.450 Adverse change in contract status of certificated employee—Notice—Probable cause—Hearing—Decision.

RCW 28A.58.450 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.58.460 Adverse change in contract status of certificated employee—Notice of judicial appeal—Service—Filing—Contents.

RCW 28A.58.460 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.58.470 Adverse change in contract status of certificated employee—Certification and filing with court of transcript by school board.

RCW 28A.58.470 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.58.480 Adverse change in contract status of certificated employee—Appeal to be heard de novo and expeditiously.

RCW 28A.58.480 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.58.490 Adverse change in contract status of certificated employee—Costs, attorney's fee and damages on appeal.

RCW 28A.58.490 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.58.500 Adverse change in contract status of certificated employee—Appeal to supreme court or court of appeals.

RCW 28A.58.500 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.58.510 Adverse change in contract status of certificated employee—Other appeal statutes not applicable.

RCW 28A.58.510 not applicable to contract renewal of school superintendents: RCW 28A.58.137.

28A.58.515 Direct judicial appeals in lieu of hearings provided in RCW 28A.58.450 and 28A.67.070.

RCW 28A.58.515 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.58.530 Information and research services. For the purpose of obtaining information on school organization, administration, operation, finance and instruction, school districts and educational service districts may contract for or purchase information and research services from public universities, colleges and other public bodies, or from private individuals or agencies. For the same purpose, school districts and educational service district superintendents may become members

of any nonprofit organization whose principal purpose is to provide such services. Charges payable for such services and membership fees payable to such organizations may be based on the cost of providing such services, on the benefit received by the participating school districts measured by enrollment, or on any other reasonable basis, and may be paid before, during, or after the receipt of such services or the participation as members of such organizations. [1975 1st ex.s. c 275 § 112; 1971 ex.s. c 93 § 4; 1969 ex.s. c 176 § 142; 1969 ex.s. c 223 § 28A.58.530. Prior: 1963 c 30 § 1. Formerly RCW 28.58.530.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.58.560 Tax deferred annuities. The board of directors of any school district, the Washington state teachers' retirement system, the superintendent of public instruction, and educational service district superintendents are authorized to provide and pay for tax deferred annuities for their respective employees in lieu of a portion of salary or wages as authorized under the provisions of 26 U.S.C., section 403(b), as amended by Public Law 87-370, 75 Stat. 796, as now or hereafter amended. The superintendent of public instruction and educational service district superintendents, if eligible, may also be provided with such annuities. [1975 1st ex.s. c 275 § 113; 1971 c 48 § 31; 1969 c 97 § 2; 1969 ex.s. c 223 § 28A.58.560. Prior: 1965 c 54 § 1, part. Formerly RCW 28.02.120, part.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.58.603 Change of district name—Procedure upon voter approval—Recording—Notice to interested institutions. If a majority of the electors voting at the election at which the proposed name is voted upon approve the proposed name, the new name shall be recorded in the school district office, the office of the educational service district superintendent, the offices of the state superintendent of public instruction and the state board of education.

All institutions which have a legal or financial interest in the status of a school district whose name has been changed shall be notified in a manner prescribed by the state attorney general. [1975 1st ex.s. c 275 § 114; 1971 c 48 § 32; 1969 ex.s. c 223 § 28A.58.603. Prior: 1967 ex.s. c 69 § 4. Formerly RCW 28.58.603.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.58.620 Actions against officers, employees or agents of school districts and educational service districts—Defense, costs, fees—Payment of obligation. Whenever any action, claim or proceeding is instituted against any director, officer, employee or agent of a school district or educational service district arising out of the performance or failure of performance of duties for, or employment with any such district, the board of directors of the school district or educational service district board, as the case may be, may grant a request by such person that the prosecuting attorney and/or attorney of the district's choosing be authorized to defend

said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the school district's general fund, or in the case of an educational service district, from any appropriation made for the support of the educational service district, to which said person is attached: *Provided*, That costs of defense and/or judgment against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his employment with or duties for the district. [1975 1st ex.s. c 275 § 115; 1972 ex.s. c 142 § 1.]

28A.58.630 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless. Any school district board of directors and educational service district board are authorized to purchase insurance to protect and hold personally harmless any director, officer, employee or agent of the respective school district or educational service district from any action, claim or proceeding instituted against him arising out of the performance or failure of performance of duties for or employment with such institution and to hold him harmless from any expenses connected with the defense, settlement or monetary judgments from such actions. [1975 1st ex.s. c 275 § 116; 1972 ex.s. c 142 § 2.]

28A.58.740 Deferred compensation plan for district employees—Limitations. In addition to any other powers and duties, any school district may contract with any classified or certificated employee to defer a portion of that employee's income, which deferred portion shall in no event exceed the appropriate internal revenue service exclusion allowance for such plans, and shall subsequently with the consent of the employee, deposit or invest in a credit union, savings and loan association, bank, mutual savings bank, or purchase life insurance, shares of an investment company, or a fixed and/or variable annuity contract, for the purpose of funding a deferred compensation program for the employee, from any life underwriter or registered representative duly licensed by this state who represents an insurance company or an investment company licensed to contract business in this state. In no event shall the total investments or payments, and the employee's non-deferred income for any year exceed the total annual salary, or compensation under the existing salary schedule or classification plan applicable to such employee in such year. Any income deferred under such a plan shall continue to be included as regular compensation, for the purpose of computing the retirement and pension benefits earned by any employee, but any sum so deducted shall not be included in the computation of any taxes withheld on behalf of any such employee. [1975 1st ex.s. c 205 § 1; 1974 ex.s. c 11 § 1.]

Chapter 28A.59
PROVISIONS APPLICABLE ONLY TO FIRST
CLASS DISTRICTS

Sections

- 28A.59.080 Superintendent's bond and oath.
28A.59.150 Auditing committee and expenditures—Examination by educational service district superintendent.

Professional certification not to be required of superintendent, deputy or assistant superintendents: RCW 28A.02.260.

28A.59.080 Superintendent's bond and oath. Before entering upon the discharge of his duties, the superintendent as secretary of the board shall give bond in such sum as the board of directors may fix from time to time, but for not less than five thousand dollars, with good and sufficient sureties, and shall take and subscribe an oath or affirmation, before a proper officer that he will support the Constitution of the United States and of the state of Washington and faithfully perform the duties of his office, a copy of which oath or affirmation shall be filed with the educational service district superintendent. [1975 1st ex.s. c 275 § 117; 1971 c 48 § 33; 1969 ex.s. c 223 § 28A.59.080. Prior: 1909 c 97 p 291 § 8; RRS § 4797. Formerly RCW 28.62.080.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.59.150 Auditing committee and expenditures—Examination by educational service district superintendent. All accounts shall be audited by a committee of board members chosen in such manner as the board so determines to be styled the "auditing committee," and, except as otherwise provided by law, no expenditure greater than three hundred dollars shall be voted by the board except in accordance with a written contract, nor shall any money or appropriation be paid out of the school fund except on a recorded affirmative vote of a majority of all members of the board: *Provided*, That nothing herein shall be construed to prevent the board from making any repairs or improvements to the property of the district through their shop and repair department as otherwise provided in RCW 28A.58.135; and the accounts and the records of said board shall at all times be subject to the inspection and examination of the educational service district superintendent, whose duty it shall be, annually, to examine said records and check said accounts, and report in writing to the proper board of county commissioners the nature and state of said accounts, and any facts that may be required concerning said records. [1975 1st ex.s. c 275 § 118; 1971 c 48 § 34; 1969 ex.s. c 223 § 28A.59.150. Prior: 1909 c 97 p 292 § 14; RRS § 4803. Formerly RCW 28.62.150, 28.62.160.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.60
PROVISIONS APPLICABLE ONLY TO SECOND
AND THIRD CLASS DISTRICTS

Sections

- 28A.60.010 Organization of board—Assumption of superintendent's duties by board member, when.
28A.60.070 Notice to ESD superintendent of change of chairman or superintendent (as amended by 1975 c 43).

- 28A.60.070 Notice to ESD superintendent of change of chairman or superintendent—Second and third class districts (as amended by 1975 1st ex.s. c 275).
28A.60.185 Repealed.
28A.60.186 Approval of building plans—Third class districts. (Amended)
28A.60.186 Approval of building plans—Third class districts. (Repealed)
28A.60.190 School property used for public purposes.
28A.60.200 School property used for public purposes—Community buildings.
28A.60.210 School property used for public purposes—Special state commission to pass on plans (as amended by 1975 c 43).
28A.60.210 School property used for public purposes—Special state commission to pass on plans (as amended by 1975 1st ex.s. c 275).
28A.60.310 Attorney may be employed.
28A.60.320 School physician or school nurse may be employed.
28A.60.328 Drawing and issuance of warrants.
28A.60.350 Housing for superintendent—Authorized—Limitation.
28A.60.352 Housing for superintendent—Prior contracts, indebtedness, validated.
28A.60.355 Beneficial interests in contracts prohibited—Exception.

Professional certification not to be required of superintendent, deputy or assistant superintendents: RCW 28A.02.260.

28A.60.010 Organization of board—Assumption of superintendent's duties by board member, when. The term of office of directors of districts of the second class shall begin, and the board shall organize, as provided in RCW 29.13.050. At the first meeting of the members of the board they shall elect a chairman from among their number who shall serve for a term of one year or until his successor is elected. The school district superintendent as defined in RCW 28A.01.100 shall serve as secretary to the board. Whenever a district shall be without the services of such a superintendent and the business of the district necessitates action thereby, the board shall appoint any member thereof to carry out the superintendent's powers and duties for the district. [1975 c 43 § 14; 1969 ex.s. c 223 § 28A.60.010. Prior: 1953 c 111 § 1; prior: (i) 1909 c 97 p 298 § 5; RRS § 4815. (ii) 1909 c 97 p 301 § 5; RRS § 4827. Formerly RCW 28.63.010.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.60.070 Notice to ESD superintendent of change of chairman or superintendent (as amended by 1975 c 43). Every school district superintendent in districts of the second class shall within ten days after any change in the office of chairman or superintendent, notify the *educational service district superintendent of such change. [1975 c 43 § 15; 1971 c 48 § 35; 1969 ex.s. c 223 § 28A.60.070. Prior: 1909 c 97 p 304 § 1; RRS § 4841; prior: 1903 c 104 § 19. Formerly RCW 28.63.070.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.60.070 Notice to ESD superintendent of change of chairman or superintendent—Second and third class districts (as amended by 1975 1st ex.s. c 275). Every school district superintendent in districts of the second and the third class shall within ten days after any change in the office of chairman or superintendent, notify the educational service district superintendent of such change. [1975 1st ex.s. c 275 § 119; 1971 c 48 § 35; 1969 ex.s. c 223 § 28A.60.070. Prior: 1909 c

97 p 304 § 1; RRS § 4841; prior: 1903 c 104 § 19. Formerly RCW 28.63.070.]

Reviser's note: RCW 28A.60.070 was amended twice by the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.60.185 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28A.60.186 Approval of building plans—Third class districts. Whenever any board of directors of school districts of the third class shall be authorized by the electors of their districts to erect a school building, such board, before entering into any contract for the erection of any such building, shall obtain the approval of the educational service district board of the plans and specifications for the building to be erected, including approval of the heating, lighting, ventilating, and safety thereof. [1975 1st ex.s. c 275 § 120; 1971 ex.s. c 282 § 39; 1971 c 48 § 36; 1969 ex.s. c 223 § 28A.60.186. Prior: 1919 c 90 § 7; 1909 c 97 p 289 § 14; RRS § 4789; prior: 1907 c 163 § 2. Formerly RCW 28.58.300, 28.58.301.]

Reviser's note: The amendment of this section by 1975 1st ex.s. c 275 does not take cognizance of the section's repeal by 1975 c 43 § 36.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.60.186 Approval of building plans—Third class districts. [1971 ex.s. c 282 § 39; 1971 c 48 § 36; 1969 ex.s. c 223 § 28A.60.186. Prior: 1919 c 90 § 7; 1909 c 97 p 289 § 14; RRS § 4789; prior: 1907 c 163 § 2. Formerly RCW 28.58.300, 28.58.301.] Repealed by 1975 c 43 § 36.

Reviser's note: This section was also amended by 1975 1st ex.s. c 275 § 120 without cognizance of the repeal thereof.

28A.60.190 School property used for public purposes. School boards in each district of the second class may provide for the free, comfortable and convenient use of the school property to promote and facilitate frequent meetings and association of the people in discussion, study, improvement, recreation and other community purposes, and may acquire, assemble and house material for the dissemination of information of use and interest to the farm, the home and the community, and facilities for experiment and study, especially in matters pertaining to the growing of crops, the improvement and handling of livestock, the marketing of farm products, the planning and construction of farm buildings, the subjects of household economies, home industries, good roads, and community vocations and industries; and may call meetings for the consideration and discussion of any such matters, employ a special supervisor, or leader, if need be, and provide suitable dwellings and accommodations for teachers, supervisors and necessary assistants. [1975 c 43 § 16; 1969 ex.s. c 223 § 28A.60.190. Prior: 1913 c 129 § 1; RRS § 4837. Formerly RCW 28.63.190.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.60.200 School property used for public purposes—Community buildings. Each school district of the second class, by itself or in combination with any other district or districts, shall have power, when in the

judgment of the school board it shall be deemed expedient, to reconstruct, remodel, or build schoolhouses, and to erect, purchase, lease or otherwise acquire other improvements and real and personal property, and establish a communal assembly place and appurtenances, and supply the same with suitable and convenient furnishings and facilities for the uses mentioned in RCW 28A.60.190, as now or hereafter amended. [1975 c 43 § 17; 1969 ex.s. c 223 § 28A.60.200. Prior: 1913 c 129 § 2; RRS § 4838. Formerly RCW 28.63.200.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.60.210 School property used for public purposes—Special state commission to pass on plans (as amended by 1975 c 43). Plans of any second class district or combination of districts for the carrying out of the powers granted by RCW 28A.60.190 through 28A.60.220, as now or hereafter amended, shall be submitted to and approved by a board of supervisors composed of members, as follows: The superintendent of public instruction; the head of the extension department of Washington State University; the head of the extension department of the University of Washington; and the *educational service district superintendent; these to choose one member from such county in which the facilities are proposed to be located, and two members, from the district or districts concerned. [1975 c 43 § 18; 1973 1st ex.s. c 154 § 46; 1971 c 48 § 37; 1969 ex.s. c 223 § 28A.60.210. Prior: 1913 c 129 § 3; RRS § 4839. Formerly RCW 28.63.210.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.60.210 School property used for public purposes—Special state commission to pass on plans (as amended by 1975 1st ex.s. c 275). Plans of any second or third class district or combination of districts for the carrying out of the powers granted by RCW 28A.60.190 through 28A.60.220 shall be submitted to and approved by a board of supervisors composed of members, as follows: The superintendent of public instruction; the head of the extension department of Washington State University; the head of the extension department of the University of Washington; and the educational service district superintendent; these to choose one member from such county in which the facilities are proposed to be located, and two members, from the district or districts concerned. [1975 1st ex.s. c 275 § 121; 1973 1st ex.s. c 154 § 46; 1971 c 48 § 37; 1969 ex.s. c 223 § 28A.60.210. Prior: 1913 c 129 § 3; RRS § 4839. Formerly RCW 28.63.210.]

Reviser's note: RCW 28A.60.210 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.60.310 Attorney may be employed. The board of directors of every second class district in addition to their other powers are authorized to employ an attorney and to prescribe his duties and fix his compensation. [1975 c 43 § 19; 1971 c 8 § 5. Prior: 1967 c 220 § 1. Formerly RCW 28.63.340.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1971 c 8: See note following RCW 28A.58.435.

28A.60.320 School physician or school nurse may be employed. The board of directors of any school district of the second class may employ a regularly licensed

physician or a licensed public health nurse for the purpose of protecting the health of the children in said district. [1975 c 43 § 20; 1969 ex.s. c 223 § 28A.60.320. Prior: 1937 c 60 § 1; RRS § 4776-4. Formerly RCW 28.31.080.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.60.328 Drawing and issuance of warrants. Second class school districts, subject to the approval of the superintendent of public instruction, may draw and issue warrants for the payment of moneys upon approval of a majority of the board of directors, such warrants to be signed by the chairman of the board and countersigned by the secretary: *Provided*, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the chairman of the board personally imposes too great a task on the chairman, the board of directors, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the chairman of the board, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants.

Accounts and the records of second class school districts drawing and issuing warrants as provided in this section shall at all times be subject to the inspection and examination of the *educational service district superintendent, whose duty it shall be, annually, to examine said records and check said accounts, and report in writing to the proper board of county commissioners the nature and state of said accounts, and any facts that may be required concerning said records. [1975 c 43 § 21; 1973 c 111 § 1.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1973 c 111: "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 111 § 6.] This applies to RCW 36.22.090, 28A.58.730, 28A.60.328, 28A.66.010 and 28A.66.040.

28A.60.350 Housing for superintendent—Authorized—Limitation. Notwithstanding any other provision of law, any second or third class school district with an enrollment of three hundred students or less may provide housing for the superintendent of the school district, or any person acting in the capacity of superintendent, by such means and with such moneys as the school district shall determine: *Provided*, That any second or third class school district presently providing such housing may continue to provide the same: *Provided further*, That if such housing is exempt from real property taxation by virtue of school district ownership, the school district shall charge for such housing,

rent at least equal to the amount of real property tax for which such housing would be liable were it not so owned. [1975 1st ex.s. c 41 § 1.]

Classes of districts—Change of classification: RCW 28A.57.140.

Classes of districts—Change of classification—Delay of authorized: RCW 28A.57.145.

28A.60.352 Housing for superintendent—Prior contracts, indebtedness, validated. Any contracts heretofore entered into by the board of directors of any second or third class school district relating to the providing of housing for the superintendent of the school district, or any person acting in the capacity of superintendent, and any indebtedness in any amount heretofore contracted by the board of directors of any second or third class school district for providing such housing, are hereby validated. [1975 1st ex.s. c 41 § 2.]

Classes of districts—Change of classification: RCW 28A.57.140.

Classes of districts—Change of classification—Delay of authorized: RCW 28A.57.145.

28A.60.355 Beneficial interests in contracts prohibited—Exception. No school director or officer of a second or third class school district shall be beneficially interested, directly or indirectly, in any contract which may be made, by, through or under the supervision of such officer, in whole or in part or which may be made for the benefit of his office, or accept, directly or indirectly any compensation, gratuity or reward in connection with such contract by or through any other person beneficially interested therein. This section shall not apply to the letting of any contract for the driving of a school bus in a second or third class school district provided the remuneration to the driver of such school bus shall not exceed thirty-six hundred dollars in any calendar year. [1975 1st ex.s. c 41 § 3.]

Classes of districts—Change of classification: RCW 28A.57.140.

Classes of districts—Change of classification—Delay of authorized: RCW 28A.57.145.

Chapter 28A.65 SCHOOL DISTRICT BUDGETS

Sections

- 28A.65.020 Preliminary budgets—Revenue and expenditure detail.
- 28A.65.050 Preliminary budgets—Forms—Classifications—Accounting and cost systems.
- 28A.65.070 Preliminary budgets—Notice of completion and of hearing thereon—Taxpayers' copies.
- 28A.65.080 Preliminary budgets—Hearing and adoption of preliminary budget—Tentative adoption of revisable items—Preliminary budget review committee, duties—Preliminary budget filed—Budget constitutes appropriations for fiscal year (as amended by 1975 c 43).
- 28A.65.080 Preliminary budgets—Hearing and adoption of preliminary budget—Tentative adoption of revisable items—Preliminary budget review committee, duties—Preliminary budget filed—Budget constitutes appropriations for fiscal year (as amended by 1975 1st ex.s. c 275).
- 28A.65.090 Preliminary budgets—Meeting to revise items which depend upon enrollment—Notice—Hearing.
- 28A.65.100 Adoption of budget—Second class districts to forward for review (as amended by 1975 c 43).

- 28A.65.100 Adoption of budget—Second and third class districts to forward for review (as amended by 1975 1st ex.s. c 275).
- 28A.65.110 Final budget review committee—Composition—Review, standard.
- 28A.65.120 Certification and filing of budgets (as amended by 1975 c 43).
- 28A.65.120 Certification and filing of budgets (as amended by 1975 1st ex.s. c 275).
- 28A.65.150 Second class districts—Emergency expenditures (as amended by 1975 c 43).
- 28A.65.150 Second and third class districts—Emergency expenditures (as amended by 1975 1st ex.s. c 275).
- 28A.65.153 Emergency expenditure resolutions filed with officials.
- 28A.65.170 Budget constitutes appropriations—Nonbudgeted expenditures prohibited—Personal liability—Transfers between budget classes.
- 28A.65.175 Interim expenditures authorized prior to final budget approval.
- 28A.65.180 Rules and regulations for budgetary procedure—Review when superintendent determines budget not sound—Revised budget, state board's financial plan until adoption.
- 28A.65.300 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting (Effective July 1, 1976).

28A.65.020 Preliminary budgets—Revenue and expenditure detail. The revenue section of the preliminary budget shall set forth the estimated receipts from all sources for the ensuing fiscal year, the estimated receipts for the fiscal year current at the time of preliminary budget preparation, the actual receipts for the last completed fiscal year, and the probable cash on hand available for ensuing fiscal year disbursements at the close of the said current fiscal year. The estimated receipts from all sources for the ensuing fiscal year shall not include any revenue not anticipated to be received in cash during that fiscal year: *Provided*, That school districts, pursuant to rules and regulations promulgated by the superintendent of public instruction, shall be granted permission to include as revenues in their preliminary budgets receivables collectible in future fiscal years limited to those payments made in odd-numbered years on or before July 10th from the distribution of the proceeds from the state property tax for the benefit of the common schools. Such permission shall not affect in any manner those requirements as set forth in RCW 28A.65.095 regarding petitions by school district boards to the superintendent of public instruction for permission to include receivables collectible in future fiscal years in final budgets.

The expenditure section of the preliminary budget shall set forth by detailed items or classes the estimated expenditures for the ensuing fiscal year, the appropriations for the fiscal year current at the time of preliminary budget preparation, and the expenditures for the last completed fiscal year. Each salary shall be set forth separately, together with the title or position of the recipient: *Provided*, That in lieu thereof salaries may be set out in total amounts under each budget class.

The estimated disbursements consistent with the provisions of RCW 28A.65.170 for the ensuing fiscal year must not be greater than the total of the estimated cash receipts for the ensuing fiscal year, the probable net cash balance and investments at the close of the current fiscal year and the projected revenue from receivables

collectible on future years approved by the superintendent of public instruction for inclusion in the preliminary budget. [1975 1st ex.s. c 202 § 1; 1972 ex.s. c 115 § 1; 1969 ex.s. c 119 § 21; 1969 ex.s. c 223 § 28A.65.020. Prior: 1965 ex.s. c 124 § 3. Formerly RCW 28.65.020.]

28A.65.050 Preliminary budgets—Forms—Classifications—Accounting and cost systems.

Studies and adoption of classification for school district budgets—Publication: RCW 28A.03.350.

28A.65.070 Preliminary budgets—Notice of completion and of hearing thereon—Taxpayers' copies. The board of directors shall immediately after the compilation of said preliminary budget publish a notice stating that the board of directors has completed the preliminary budget and placed the same on file with the school district superintendent, that a copy thereof will be furnished any taxpayer who will call upon the superintendent for it, and that the board of directors will meet for the purpose of fixing and adopting the preliminary budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting which shall occur on or before the first day of June: *Provided*, That if the state legislature has not appropriated by the tenth of May moneys under RCW 28A.41.050 needed for the support of the common schools, said meetings for districts of the first class shall occur on or before the fifteenth of June. The notice shall also state that any taxpayer may appear thereat and be heard for or against any part of such budget. Said notice shall be published once each week for two consecutive weeks immediately following the compilation of the preliminary budget in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county. The board of directors shall provide a sufficient number of copies of the preliminary budget to meet the reasonable demands of the taxpayers therefor, and the same shall be made available for distribution not later than two weeks immediately preceding the date set for the public hearing. [1975 1st ex.s. c 53 § 1; 1969 ex.s. c 223 § 28A.65.070. Prior: 1965 ex.s. c 124 § 8. Formerly RCW 28.65.070.]

28A.65.080 Preliminary budgets—Hearing and adoption of preliminary budget—Tentative adoption of revisable items—Preliminary budget review committee, duties—Preliminary budget filed—Budget constitutes appropriations for fiscal year (as amended by 1975 c 43). On the date given in said notice the board of directors shall meet at the time and place designated. Any taxpayer may appear thereat and be heard for or against any part of such budget. Such hearing may be continued not to exceed a total of two days.

Upon the conclusion of the hearing, the board of directors shall fix and determine each item or class of the budget separately and shall by resolution adopt the preliminary budget as so finally determined and enter the same in detail in the official minutes: *Provided*, That the estimates for the expenditures depending directly upon the prospective September enrollment or appropriations yet to be made by the legislature for the support of the common schools shall be adopted tentatively subject to revision: *Provided further*, That in all second class districts five copies of said preliminary budget shall be forwarded to the *educational service district superintendent within five days after the adoption of said preliminary budget for review, alteration, and approval by the preliminary budget review committee. Members

of the preliminary budget review committee shall consist of the *educational service district superintendent, a member of the local board of directors, a member of the *educational service district board, and a representative of the state superintendent of public instruction. The preliminary budget review committee shall fix and approve the amount of the preliminary budget on or before the thirtieth day of June. A copy of said preliminary budget shall within ten days after adoption by first class districts or approval by the preliminary budget review committee in second class districts be filed with the *educational service district superintendent, the state superintendent of public instruction, and the county auditor: The preliminary budget as adopted and approved shall constitute the appropriations for the district for the ensuing fiscal year commencing July 1, and be in effect until final adoption of the budget. [1975 c 43 § 22; 1972 ex.s. c 26 § 2; 1971 ex.s. c 93 § 2; 1971 c 48 § 38; 1969 ex.s. c 119 § 25; 1969 ex.s. c 223 § 28A.65.080. Prior: 1965 ex.s. c 124 § 9. Formerly RCW 28.65.080.]

***Reviser's note:** "educational service district superintendent" and "educational service district board" are herein substituted for "intermediate school district superintendent" and "intermediate school district board" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.65.080 Preliminary budgets—Hearing and adoption of preliminary budget—Tentative adoption of revisable items—Preliminary budget review committee, duties—Preliminary budget filed—Budget constitutes appropriations for fiscal year (as amended by 1975 1st ex.s. c 275). On the date given in said notice the board of directors shall meet at the time and place designated. Any taxpayer may appear thereat and be heard for or against any part of such budget. Such hearing may be continued not to exceed a total of two days.

Upon the conclusion of the hearing, the board of directors shall fix and determine each item or class of the budget separately and shall by resolution adopt the preliminary budget as so finally determined and enter the same in detail in the official minutes: *Provided*, That the estimates for the expenditures depending directly upon the prospective September enrollment or appropriations yet to be made by the legislature for the support of the common schools shall be adopted tentatively subject to revision: *Provided further*, That in all second and third class districts five copies of said preliminary budget shall be forwarded to the educational service district superintendent within five days after the adoption of said preliminary budget for review, alteration, and approval by the preliminary budget review committee. Members of the preliminary budget review committee shall consist of the educational service district superintendent, a member of the local board of directors, a member of the educational service district board, and a representative of the state superintendent of public instruction. The preliminary budget review committee shall fix and approve the amount of the preliminary budget on or before the thirtieth day of June. A copy of said preliminary budget shall within ten days after adoption by first class districts or approval by the preliminary budget review committee in second and third class districts be filed with the educational service district superintendent, the state superintendent of public instruction, and the county auditor: The preliminary budget as adopted and approved shall constitute the appropriations for the district for the ensuing fiscal year commencing July 1, and be in effect until final adoption of the budget. [1975 1st ex.s. c 275 § 122; 1972 ex.s. c 26 § 2; 1971 ex.s. c 93 § 2; 1971 c 48 § 38; 1969 ex.s. c 119 § 25; 1969 ex.s. c 223 § 28A.65.080. Prior: 1965 ex.s. c 124 § 9. Formerly RCW 28.65.080.]

Reviser's note: RCW 28A.65.080 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1972 ex.s. c 26: See note following RCW 28A.41.055.

Severability—1971 c 48: See note following RCW 28A.04.040.

Preliminary budget as final school budget: RCW 28A.65.190.

28A.65.090 Preliminary budgets—Meeting to revise items which depend upon enrollment—Notice—Hearing. On or before the twenty-fifth of September

following, the board of directors of districts of the second class, and on or before the first Monday in October following, the board of directors of districts of the first class shall meet for the purpose of revising those items of the budget adopted pursuant to RCW 28A.65.080 to meet the requirements of the enrollment as finally determined. Said meeting shall be a public meeting, notice thereof to be given in the manner provided in RCW 28A.65.070. Any taxpayer may appear thereat and be heard for or against any proposed revision. [1975 c 43 § 23; 1969 ex.s. c 119 § 26; 1969 ex.s. c 223 § 28A.65.090. Prior: 1965 ex.s. c 124 § 10. Formerly RCW 28.65.090.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.65.100 Adoption of budget—Second class districts to forward for review (as amended by 1975 c 43). Upon the conclusion of the revision hearing the board of directors shall fix and determine the budget and by resolution adopt the same: *Provided*, That in the case of second class districts the board of directors shall immediately forward the budget to the *educational service district superintendent for review and revision by the final budget review committee. [1975 c 43 § 24; 1971 c 48 § 39; 1969 ex.s. c 119 § 27; 1969 ex.s. c 223 § 28A.65.100. Prior: 1965 ex.s. c 124 § 11. Formerly RCW 28.65.100.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.65.100 Adoption of budget—Second and third class districts to forward for review (as amended by 1975 1st ex.s. c 275). Upon the conclusion of the revision hearing the board of directors shall fix and determine the budget and by resolution adopt the same: *Provided*, That in the case of second and third class districts the board of directors shall immediately forward the budget to the educational service district superintendent for review and revision by the final budget review committee. [1975 1st ex.s. c 275 § 123; 1971 c 48 § 39; 1969 ex.s. c 119 § 27; 1969 ex.s. c 223 § 28A.65.100. Prior: 1965 ex.s. c 124 § 11. Formerly RCW 28.65.100.]

Reviser's note: RCW 28A.65.100 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.65.110 Final budget review committee—Composition—Review, standard. The final budget review committee shall consist of the educational service district superintendent, a member of the local board of directors, and the members of the educational service district board.

Upon receipt of the district budget the final budget review committee shall meet on or before the thirtieth day of September and finally fix and determine the total amount of the budget. Said meeting shall be open to the public, and copies of the original and revised budgets shall be available for examination by any resident taxpayer in attendance.

Revenues, including income from taxation, shall be budgeted and approved by the final budget review committee on the basis of the expected cash receipts during the current fiscal year. [1975 1st ex.s. c 275 § 124; 1971 c 48 § 40; 1969 ex.s. c 119 § 28; 1969 ex.s. c 223 § 28A.65.110. Prior: 1965 ex.s. c 124 § 12. Formerly RCW 28.65.110.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.65.120 Certification and filing of budgets (as amended by 1975 c 43). Upon the conclusion of the revision hearing in districts of the first class and upon the conclusion of the final budget review committee's action in districts of the second class, the board or final budget review committee as the case may be shall certify the final budget and the amount to be raised by taxation to the county commissioners for the levying of the district taxes in the manner now provided by law. A copy of said final budget, when certified, shall be filed with the *educational service district superintendent, state superintendent of public instruction, the appropriate county auditor for the board of county commissioners, and the division of municipal corporations, office of the state auditor. The certification and filing of the budgets as aforesaid shall occur on or before the first Monday of October. [1975 c 43 § 25; 1971 c 48 § 41; 1969 ex.s. c 119 § 29; 1969 ex.s. c 223 § 28A.65.120. Prior: 1965 ex.s. c 124 § 13. Formerly RCW 28.65.120.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective date—**Severability**—1975 c 43: See notes following RCW 28A.57.140.

28A.65.120 Certification and filing of budgets (as amended by 1975 1st ex.s. c 275). Upon the conclusion of the revision hearing in districts of the first class and upon the conclusion of the final budget review committee's action in districts of the second and third class, the board or final budget review committee as the case may be shall certify the final budget and the amount to be raised by taxation to the county commissioners for the levying of the district taxes in the manner now provided by law. A copy of said final budget, when certified, shall be filed with the educational service district superintendent, state superintendent of public instruction, the appropriate county auditor for the board of county commissioners, and the division of municipal corporations, office of the state auditor. The certification and filing of the budgets as aforesaid shall occur on or before the first Monday of October. [1975 1st ex.s. c 275 § 125; 1971 c 48 § 41; 1969 ex.s. c 119 § 29; 1969 ex.s. c 223 § 28A.65.120. Prior: 1965 ex.s. c 124 § 13. Formerly RCW 28.65.120.]

Reviser's note: RCW 28A.65.120 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.65.150 Second class districts—Emergency expenditures (as amended by 1975 c 43). If an emergency arises in a second class school district because of unforeseen conditions, the board of directors shall declare by resolution that an emergency exists. The board of directors, in consultation with the *educational service district superintendent and the final budget review committee, shall determine the best means of meeting such emergency. When the proposed plan and the indebtedness therefor have received the approval of the state superintendent of public instruction, it shall be put into effect. [1975 c 43 § 26; 1971 c 48 § 42; 1969 ex.s. c 119 § 33; 1969 ex.s. c 223 § 28A.65.150. Prior: 1965 ex.s. c 124 § 16. Formerly RCW 28.65.150.]

***Reviser's note:** "educational service district superintendent" is herein substituted for "intermediate school district superintendent" pursuant to RCW 28A.21.010 and 28A.21.900.

Effective—**Severability**—1975 c 43: See notes following RCW 28A.57.140.

28A.65.150 Second and third class districts—Emergency expenditures (as amended by 1975 1st ex.s. c 275). If an emergency arises in a second or third class school district because of unforeseen conditions, the board of directors shall declare by resolution that an emergency exists. The board of directors, in consultation with the educational service district superintendent and the final budget review committee, shall determine the best means of meeting such emergency. When the proposed plan and the indebtedness therefor have received the approval of the state superintendent of public instruction, it shall be put

into effect. [1975 1st ex.s. c 275 § 126; 1971 c 48 § 42; 1969 ex.s. c 119 § 33; 1969 ex.s. c 223 § 28A.65.150. Prior: 1965 ex.s. c 124 § 16. Formerly RCW 28.65.150.]

Reviser's note: RCW 28A.65.150 was amended twice during the 1975 regular and first extraordinary sessions of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same session, see RCW 1.12.025.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.65.153 Emergency expenditure resolutions filed with officials. All adopted emergency expenditure resolutions shall be filed with the county auditor, county treasurer, educational service district superintendent, state auditor, and the state superintendent of public instruction. [1975 1st ex.s. c 275 § 127; 1971 c 48 § 43; 1969 ex.s. c 119 § 34. Like section formerly RCW 28.65.153.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.65.170 Budget constitutes appropriations—Nonbudgeted expenditures prohibited—Personal liability—Transfers between budget classes. The budget as finally adopted shall constitute the appropriations of the district for the ensuing fiscal year and the board of directors shall be limited in the making of expenditures and the incurring of liabilities to the grand total of such appropriations. The board of directors shall make no expenditures nor incur any liability for any purpose not provided for in said budget, except for emergencies as hereinabove provided: *Provided*, That transfers between budget classes may be made by the school district's chief administrative officer or finance officer, subject to such regulations as may be imposed by the school district board of directors: *Provided further*, That over-expenditures made in violation of this statute shall not be a liability of said district. Directors, officers or employees who knowingly or negligently violate or participate in a violation of this statute by the making of expenditures, incurring of liabilities, or issuing of warrants in excess of appropriations may be held civilly liable jointly and severally for all consequential damages, or not less than three hundred dollars as liquidated damages, for each such violation. If as a result of a civil or criminal action the violation is found to have been done knowingly, such director, officer or employee who is found to have participated in such breach shall immediately forfeit his office or employment and the judgment in such action shall so provide. Nothing in this section shall be construed to limit the duty of the attorney general to recover from any director, officer, employee, or other person in a civil action under RCW 43.09.260 as now or hereafter amended. [1975 1st ex.s. c 151 § 1; 1972 ex.s. c 26 § 1; 1971 ex.s. c 93 § 3; 1969 ex.s. c 119 § 36; 1969 ex.s. c 223 § 28A.65.170. Prior: 1965 ex.s. c 124 § 18. Formerly RCW 28.65.170.]

Severability—1972 ex.s. c 26: See note following RCW 28A.41.055.

Preliminary budget as final school budget: RCW 28A.65.190.

28A.65.175 Interim expenditures authorized prior to final budget approval. If for any reason the preliminary or final budget of a school district has not been adopted

or approved on or before the time limits provided for in this chapter, the board of directors of the school districts nevertheless may make expenditures for the payment of regular employees, for the necessary repairs and upkeep of the school plant, for the purchase of books and supplies, and for the district's participation in joint purchasing agencies authorized by RCW 28A.58.107 during the interim period while the budget is being settled. [1975 1st ex.s. c 151 § 2.]

28A.65.180 Rules and regulations for budgetary procedure—Review when superintendent determines budget not sound—Revised budget, state board's financial plan until adoption. Notwithstanding any other provision of law, the state superintendent of public instruction is hereby directed to promulgate such rules and regulations as will insure proper budgetary procedures and practices including monthly financial statements consistent with the provisions of RCW 43.09.200 and 28A.65.050. If the superintendent of public instruction determines upon his review of the preliminary or final budget of any district that said budget does not comply with the budget procedures established by the state superintendent of public instruction or the provisions of RCW 43.09.200 and 28A.65.050, he shall give notice of this determination to the board of directors of the local school district. The state superintendent of public instruction shall then call a meeting with the educational service district superintendent, the local board of directors, and the chief administrative officer of the district to review said budget. Upon the conclusion of said meeting the state superintendent shall issue findings and direct that a financially sound budget be developed by the district for operation.

In the event the budget under consideration by the state superintendent is the preliminary budget, the local district shall be obligated to submit a final budget which meets the requirements of RCW 43.09.200 and 28A.65.050 and the rules of the state superintendent adopted pursuant hereto. In the event the budget under consideration by the state superintendent is the final budget, the local school district, notwithstanding any other provision of law, shall within thirty days from the date the state superintendent issues a directive, submit a revised budget which meets the requirements of RCW 43.09.200 and 28A.65.050 and the rules of the state superintendent adopted pursuant hereto: *Provided*, That if the district fails or refuses to submit a revised budget which in the determination of the state superintendent meets the requirements of RCW 43.09.200 and 28A.65.050 or the state superintendent's rules the matter shall be submitted to the state board of education which shall meet and adopt a financial plan which shall be in effect until a budget can be adopted and submitted by the district in compliance with this statute. [1975 1st ex.s. c 275 § 128; 1971 c 48 § 44; 1969 ex.s. c 119 § 30. Like section formerly RCW 28.65.180.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Preliminary budget as final school budget: RCW 28A.65.190.

[1975 RCW Supp—p 270]

28A.65.300 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting. (Effective July 1, 1976.) See RCW 28A.58.120.

Chapter 28A.66 SCHOOL DISTRICT WARRANTS, AUDITOR'S DUTIES RELATING TO

Sections

- 28A.66.010 Registering warrants—All districts.
- 28A.66.020 Registering warrants—Second class districts.
- 28A.66.040 Auditor to draw and issue warrants—Second class districts.
- 28A.66.060 Teacher's last month's salary not to be drawn and issued or registered unless final report filed—All districts.
- 28A.66.080 Orders for warrants not transferable—Second class districts.
- 28A.66.100 Auditor's annual report to educational service district superintendent.

28A.66.010 Registering warrants—All districts.

The county auditor shall register in his own office, and present to the treasurer for registration in the office of the county treasurer, all warrants of first class districts, and all warrants of second class districts electing to draw and issue their own warrants under RCW 28A.60.328, as now or hereafter amended, received from school district superintendents or district secretaries before delivery of the same to claimants. [1975 c 43 § 27; 1973 c 111 § 2; 1969 ex.s. c 223 § 28A.66.010. Prior: 1911 c 78 § 1, part; RRS § 4864. Formerly RCW 28.66.010.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1973 c 111: See note following RCW 28A.60.328.

28A.66.020 Registering warrants—Second class districts. The county auditor shall cause all school warrants of second class districts issued by him to be registered in the treasurer's office and shall retain the vouchers on file in his office. [1975 c 43 § 28; 1969 ex.s. c 223 § 28A.66.020. Prior: 1911 c 78 § 1, part; RRS § 4863. Formerly RCW 28.66.020.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.66.040 Auditor to draw and issue warrants—Second class districts. The county auditor shall draw and issue warrants for the payment of all salaries, expenses and accounts against second class districts, except those who draw and issue their own warrants pursuant to RCW 28A.60.328, as now or hereafter amended, upon the written order of the majority of the members of the school board of each district. [1975 c 43 § 29; 1973 c 111 § 3; 1969 ex.s. c 223 § 28A.66.040. Prior: 1909 c 97 p 308 § 3; RRS § 4859. Formerly RCW 28.66.040.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1973 c 111: See note following RCW 28A.60.328.

28A.66.060 Teacher's last month's salary not to be drawn and issued or registered unless final report filed—All districts. The county auditor shall not draw and issue or register the warrant in payment of the last month's salary of any teacher in any district until he shall receive notice from the educational service district superintendent that the teacher's final report has been made to the said educational service district superintendent or that no such report is required. [1975 1st ex.s. c 275 § 129; 1971 c 48 § 46; 1969 ex.s. c 223 § 28A.66-.060. Prior: 1909 c 97 p 309 § 6; RRS § 4862. Formerly RCW 28.66.060.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Last month's salary withheld until report filed, register received: RCW 28A.67.040, 28A.67.050.

28A.66.080 Orders for warrants not transferable—Second class districts. An order for a warrant issued by any board of directors of second class school districts shall not be transferable, and the county auditor shall issue no warrant except to individuals or firms designated in original district orders. [1975 c 43 § 30; 1969 ex.s. c 223 § 28A.66.080. Prior: 1959 c 216 § 23; prior: 1933 c 28 § 2, part; 1909 c 97 p 288 § 9, part; 1897 c 118 § 46, part; 1893 c 107 § 3, part; RRS § 4784, part. Formerly RCW 28.66.080.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

28A.66.100 Auditor's annual report to educational service district superintendent. The county auditor shall make an annual report for the period ending on the preceding June thirtieth on the financial condition of each school in his county to the educational service district superintendent on or before the twenty-fifth day of July, in such form as may be prescribed by the superintendent of public instruction. [1975 1st ex.s. c 275 § 130; 1971 c 48 § 47; 1969 ex.s. c 223 § 28A.66.100. Prior: 1911 c 78 § 1, part; RRS § 4866. Formerly RCW 28.66.100.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.67

TEACHERS—GENERAL PROVISIONS

Sections

- 28A.67.015 Qualifications—Professional certification not to be required of superintendent, deputy or assistant superintendents.
- 28A.67.040 Annual report—Report as prerequisite for salary.
- 28A.67.060 Course of study and regulations—Enforcement—Withholding salary warrant for failure.
- 28A.67.065 Evaluative criteria and procedure for certificated employees—Requirements. (Effective January 1, 1976.)
- 28A.67.070 Conditions and contracts of employment—Nonrenewal of contracts.
- 28A.67.074 Conditions and contracts of employment—Supplemental contracts, when—Continuing contract provisions not applicable to.

Educational employment relations act: Chapter 41.59 RCW.

Pupil/teacher ratio provisions, board rules and regulations: RCW 28A.41.130.

28A.67.015 Qualifications—Professional certification not to be required of superintendent, deputy or assistant superintendents. See RCW 28A.02.260.

28A.67.040 Annual report—Report as prerequisite for salary. Every teacher who shall be teaching at the close of the school year, or who shall teach the last term of any school year, in any school district, shall make a report to the educational service district superintendent encompassing such information pertinent to school purposes as said official requires immediately upon the close of such school year or term for the entire time taught in said school district since the beginning of the school year, if any such report be so requested by the educational service district superintendent. Copies of all reports made by teachers shall be furnished to their school district superintendent, to be by him filed in his office. No board of directors shall draw any order or warrant for the salary of any teacher for the last month of his service, until such reports, if required, shall have been made, and the same approved by the educational service district superintendent. [1975 1st ex.s. c 275 § 131; 1971 c 48 § 48; 1969 ex.s. c 223 § 28A.67.040. Prior: 1909 c 97 p 307 § 2; RRS § 4848; prior: 1903 c 104 § 20; 1897 c 118 § 52; 1891 c 127 § 15; 1890 p 370 § 38; 1886 p 18 § 46; Code 1881 § 3199. Formerly RCW 28.67.040.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Teacher's last month salary warrant not to be drawn, issued or registered by auditor until notice final report received or not required: RCW 28A.66.060.

28A.67.060 Course of study and regulations—Enforcement—Withholding salary warrant for failure. Certificated employees shall faithfully enforce in the common schools the course of study and regulations prescribed, whether regulations of the district, the superintendent of public instruction, or the state board of education, and shall furnish promptly all information relating to the common schools which may be requested by the educational service district superintendent.

Any certificated employee who wilfully refuses or neglects to enforce the course of study or the rules and regulations as above in this section required, shall not be allowed by the directors any warrant for salary due until said person shall have complied with said requirements. [1975 1st ex.s. c 275 § 132; 1971 c 48 § 49; 1969 ex.s. c 223 § 28A.67.060. Prior: (i) 1909 c 97 p 307 § 4; RRS § 4850; prior: 1899 c 142 § 11; 1897 c 118 § 54; 1886 p 18 § 47. Formerly RCW 28.67.060. (ii) 1909 c 97 p 360 § 8; RRS § 5051; prior: 1903 c 156 § 8; 1897 c 118 § 166. Formerly RCW 28.87.150.]

28A.67.065 Evaluative criteria and procedure for certificated employees—Requirements. (Effective January 1, 1976.) Every board of directors, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, shall establish an evaluative criteria and procedures for all certificated employees. Such procedure shall require not less than annual evaluation of all employees. New employees shall be evaluated within the first ninety calendar days

of their employment. Every employee whose work is judged unsatisfactory shall be notified in writing of stated areas of deficiencies along with recommendations for improvement by February 1st of each year. A probationary period shall be established from February 1st to April 15th for the employee to demonstrate improvement. [1975 1st ex.s. c 288 § 22; 1969 ex.s. c 34 § 22. Like section formerly RCW 28.67.065.]

Effective date—1975 1st ex.s. c 288: See RCW 41.59.940.

Severability—1975 1st ex.s. c 288: See RCW 41.59.950.

Construction of chapter—Employee's rights preserved: See RCW 41.59.920.

Construction of chapter—Employer's responsibilities and rights preserved: See RCW 41.59.930.

RCW 28A.67.065 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.67.070 Conditions and contracts of employment—**Nonrenewal of contracts.** No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he is the holder of an effective teacher's certificate or other certificate required by law or the state board of education for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and limited to a term of not more than one year. Every such contract shall be made in triplicate, one copy to be retained by the school district superintendent or secretary, one copy to be retained, after having been approved and registered, by the educational service district superintendent, and one copy to be delivered to the employee thereafter. No contract shall be offered by any board nor approved and registered by the educational service district superintendent for the employment of any teacher who has previously signed a contract to teach for that same term in another school district of the state of Washington unless such teacher shall have been released from his obligations under such previous contract by the board of directors of the school district to which he was obligated. Any contract signed in violation of this provision shall be void.

Every board of directors determining that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term shall notify that employee in writing on or before April 15th preceding the commencement of such term of that determination of the board of directors, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the chairman or secretary of the board of directors of the district within

ten days after receiving such notice, shall be granted opportunity for hearing to determine whether or not the facts constitute sufficient cause or causes for nonrenewal of contract. In the request for hearing, the employee may request either an open or closed hearing. Such board upon receipt of such request shall call the hearing to be held within ten days following the receipt of such request, and at least three days prior to the date fixed for the hearing shall notify the employee in writing of the date, time and place of the hearing. The hearing shall be open or closed as requested by the employee, but if the employee fails to make such a request, the board or its hearing officer may determine whether the hearing shall be open or closed.

The board may employ as a hearing officer any person not currently employed by the district to conduct on its behalf any hearing required by this section, who shall transmit to the board a record of the proceeding together with his recommended findings of fact and conclusions of law, and an advisory recommended decision for the board's final disposition. The board or its hearing officer may reasonably regulate the conduct of the hearing. The employee may engage such counsel and produce such witnesses as he or she may desire. The board of directors, within ten days following the conclusion of such hearing, shall notify the employee in writing of its final decision either to renew or not to renew the employment of the employee for the next ensuing term. Any decision not to renew such employment contract shall be based solely upon the cause or causes for nonrenewal specified in the notice of probable cause to the employee and established by a preponderance of the evidence at the hearing to be sufficient cause or causes for nonrenewal. If any such notification or opportunity for hearing is not timely given by the district, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual terms identical with those which would have prevailed if his employment had actually been renewed by the board of directors for such ensuing term. [1975 1st ex.s. c 275 § 133; 1973 c 49 § 2; 1970 ex.s. c 15 § 16. Prior: 1969 ex.s. c 176 § 143; 1969 ex.s. c 34 § 12; 1969 ex.s. c 15 § 2; 1969 ex.s. c 223 § 28A.67.070; prior: 1961 c 241 § 1; 1955 c 68 § 3; prior: (i) 1909 c 97 p 307 § 5; 1897 c 118 § 55; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; Code 1881 § 3200; RRS § 4851. (ii) 1943 c 52 § 1, part; 1941 c 179 § 1, part; 1939 c 131 § 1, part; 1925 ex.s. c 57 § 1, part; 1919 c 89 § 3, part; 1915 c 44 § 1, part; 1909 c 97 p 285 § 2, part; 1907 c 240 § 5, part; 1903 c 104 § 17, part; 1901 c 41 § 3, part; 1897 c 118 § 40, part; 1890 p 364 § 26, part; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.67.070.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

RCW 28A.67.070 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.67.074 Conditions and contracts of employment—Supplemental contracts, when—Continuing contract provisions not applicable to.

RCW 28A.67.074 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

**Chapter 28A.70
TEACHERS' CERTIFICATION**

Sections

- 28A.70.030 Professional certification not to be required of superintendent, deputy or assistant superintendents.
- 28A.70.110 Fee for certification—Disposition (as amended by 1975 1st ex.s. c 192).
- 28A.70.110 Fee for certification—Disposition (as amended by 1975 1st ex.s. c 275).
- 28A.70.130 Registration of certificates.
- 28A.70.140 Evidence of moral character without criminal convictions prerequisite to registration—Appeal from refusal to register.
- 28A.70.160 Revocation of authority to teach—Method—Grounds.
- 28A.70.170 Revocation of authority to teach—Hearings and appeals.

28A.70.030 Professional certification not to be required of superintendent, deputy or assistant superintendents. See RCW 28A.02.260.

28A.70.110 Fee for certification—Disposition (as amended by 1975 1st ex.s. c 192). The fee for any certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach or perform other professional duties in the public schools of the state shall be not less than one dollar or such reasonable fee therefor as the state board of education by rule or regulation shall deem necessary therefor. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The *educational service district superintendent, or other official authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the *educational service district superintendent is located, to be by him placed to the credit of said school district or *educational service district: *Provided*, That if any school district collecting fees for the certification of professional staff does not hold a professional training institute separate from the *educational service district then all such moneys shall be placed to the credit of the *educational service district.

Such fees shall be used solely for the purpose of precertification professional preparation, program evaluation, and professional in-service training programs in accord with rules and regulations of the state board of education herein authorized. [1975 1st ex.s. c 192 § 1; 1969 ex.s. c 176 § 144; 1969 ex.s. c 223 § 28A.70.110. Prior: 1965 c 139 § 20; 1909 c 97 p 336 § 3; RRS § 4968; prior: 1897 c 118 § 142. Formerly RCW 28.70.110, 28.70.120.]

***Reviser's note:** "educational service district superintendent" and "educational service district" are herein substituted for "intermediate school district superintendent" and "intermediate school district" pursuant to RCW 28A.21.010 and 28A.21.900.

Severability—1975 1st ex.s. c 192: "If any provision of this 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." [1975 1st ex.s. c 192 § 3.] This applies to RCW 28A.70.110 and 28A.71.100.

28A.70.110 Fee for certification—Disposition (as amended by 1975 1st ex.s. c 275). The fee for any teaching certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach in the public schools of the state shall be not less than one dollar or such reasonable fee therefor as the state board of education by rule or regulation shall deem necessary therefor. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The educational service district superintendent, or other official authorized

to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the educational service district superintendent is located, to be by him placed to the credit of the institute fund of said school district or educational service district institute fund which shall be created by the educational service district board: *Provided*, That if any school district collecting fees for the certification of teachers does not hold an institute separate from the educational service district then all such moneys shall be placed to the credit of the educational service district institute fund. [1975 1st ex.s. c 275 § 134; 1969 ex.s. c 176 § 144; 1969 ex.s. c 223 § 28A.70.110. Prior: 1965 c 139 § 20; 1909 c 97 p 336 § 3; RRS § 4968; prior: 1897 c 118 § 142. Formerly RCW 28.70.110, 28.70.120.]

Reviser's note: RCW 28A.70.110 was amended twice during the 1975 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 session, see RCW 1.12.025.

Rights preserved—Severability—1969 ex.s. c 144: See notes following RCW 28A.21.010.

28A.70.130 Registration of certificates. All certificates issued by the superintendent of public instruction shall be valid and entitle the holder thereof to teach in any county of the state upon being registered by the educational service district superintendent thereof, which fact shall be evidenced by him on the certificate in the words, "Registered for use in ----- county," together with the date of registry, and his official signature: *Provided*, That a copy of the original certificate duly certified by the superintendent of public instruction may be used for the purpose of registry and endorsement in lieu of the original. [1975 1st ex.s. c 275 § 135; 1971 c 48 § 50; 1969 ex.s. c 223 § 28A.70.130. Prior: 1909 c 97 p 338 § 11; RRS § 4976; prior: 1897 c 118 § 147. Formerly RCW 28.70.130.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.70.140 Evidence of moral character without criminal convictions prerequisite to registration—Appeal from refusal to register. Before registering any certificate, the educational service district superintendent of the county in which application is made for certificate shall satisfy himself that the applicant is a person of good moral character, personal fitness, and has not been convicted of any crimes involving the physical neglect of children, physical injury of children (excepting possible motor vehicle violations), or sexual abuse of children. In the event of a refusal to register a certificate for whatsoever reason, the educational service district superintendent shall immediately notify the superintendent of public instruction of his action and shall fully and clearly state his reasons therefor, and the person aggrieved shall have the right of appeal to the superintendent of public instruction, and shall have the further right of appeal to the state board of education. [1975 1st ex.s. c 275 § 136; 1974 ex.s. c 55 § 1; 1969 ex.s. c 176 § 145; 1969 ex.s. c 223 § 28A.70.140. Prior: 1911 c 16 § 1; 1909 c 97 p 337 § 5; RRS § 4970. Formerly RCW 28.70.140.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.70.160 Revocation of authority to teach—Method—Grounds. Any certificate to teach authorized under the provisions of this chapter or rules and

regulations promulgated thereunder may be revoked by the authority authorized to grant the same upon complaint of any school district superintendent or educational service district superintendent for immorality, violation of written contract, intemperance, crime against the law of the state, the conviction of any crime involving the physical neglect of children, the physical injury of children (excepting possible motor vehicle violations) or the sexual abuse of children, or any unprofessional conduct, after the person whose certificate is in question has been given an opportunity to be heard. [1975 1st ex.s. c 275 § 137; 1974 ex.s. c 55 § 2; 1971 c 48 § 51; 1969 ex.s. c 223 § 28A.70.160. Prior: 1909 c 97 p 345 § 1; RRS § 4992; prior: 1897 c 118 § 148. Formerly RCW 28.70.160.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.70.170 Revocation of authority to teach—Hearings and appeals. Any teacher whose certificate to teach has been questioned by the filing of a complaint by a school district superintendent or educational service district superintendent under RCW 28A.70.160 shall have a right to be heard by the issuing authority before his certificate is revoked. Any teacher whose certificate to teach has been revoked shall have a right of appeal to the state board of education if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.

An appeal to the state board of education within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered. [1975 1st ex.s. c 275 § 138; 1971 c 48 § 52; 1969 ex.s. c 223 § 28A.70.170. Prior: 1909 c 97 p 346 § 3; RRS § 4994. Formerly RCW 28.70.170.]

Severability—1971 c 48: See note following RCW 28A.04.040.

Chapter 28A.71

TEACHERS' INSTITUTES, WORKSHOPS AND OTHER IN-SERVICE TRAINING

Sections

- 28A.71.100 Authorized—Support—Accounting (as amended by 1975 1st ex.s. c 192).
28A.71.100 Authorized—Support—Accounting (as amended by 1975 1st ex.s. c 275).

28A.71.100 Authorized—Support—Accounting (as amended by 1975 1st ex.s. c 192). The *educational service district board may arrange each year for the holding of one or more teachers' institutes and/or workshops for professional staff preparation and in-service training in such manner and at such time as the board believes will be of benefit to the teachers and other professional staff of school districts within the *educational service district and shall comply with rules and regulations of the state board of education pursuant to RCW 28A.70.110 as now or hereafter amended. The board may provide such additional means of teacher and other professional staff preparation and in-service training as it may deem necessary or appropriate and there shall be a proper charge against the *educational service district general expense fund when approved by the *educational service district board.

*Educational service district boards of contiguous *educational service districts, by mutual arrangements, may hold joint institutes and/or workshops, the expenses to be shared in proportion to the numbers of certificated personnel as shown by the last annual reports

[1975 RCW Supp—p 274]

of the *educational service districts holding such joint institutes or workshops.

In local school districts employing more than one hundred teachers and other professional staff, the school district superintendent may hold a teachers' institute of one or more days in such district, said institute when so held by the school district superintendent to be in all respects governed by the provisions of this code and state board of education rules and regulations relating to teachers' institutes held by *educational service district superintendents. [1975 1st ex.s. c 192 § 2; 1971 ex.s. c 282 § 31; 1969 ex.s. c 176 § 146; 1969 ex.s. c 223 § 28A.71.100. Prior: 1965 c 139 § 21. Formerly RCW 28.71.100.]

***Reviser's note:** "educational service district board", "educational service district" and "educational service district superintendents" are herein substituted for "intermediate school district board", "intermediate school district" and "intermediate school district superintendents", pursuant to RCW 28A.21.010 and 28A.21.900.

Severability—1975 1st ex.s. c 192: See note following RCW 28A.70.110.

28A.71.100 Authorized—Support—Accounting (as amended by 1975 1st ex.s. c 275). The educational service district board may arrange each year for the holding of one or more teachers' institutes and/or workshops for in-service training in such manner and at such time as the board believes will be of benefit to the teachers within the educational service district. The board may provide such additional means of teacher in-service training as it may deem necessary or appropriate and there shall be a proper charge against the educational service district institute funds and/or the educational service district general expense fund when approved by the educational service district board.

Educational service district boards of contiguous educational service districts, by mutual arrangements, may hold joint institutes and/or workshops, the expenses to be shared in proportion to the numbers of certificated personnel as shown by the last annual reports of the educational service districts holding such joint institutes or workshops.

In local school districts employing more than one hundred teachers, the school district superintendent may hold a teachers' institute of one or more days in such district, said institute when so held by the school district superintendent to be in all respects governed by the provisions of this code relating to teachers' institutes held by educational service district superintendents. [1975 1st ex.s. c 275 § 139; 1971 ex.s. c 282 § 31; 1969 ex.s. c 176 § 146; 1969 ex.s. c 223 § 28A.71.100. Prior: 1965 c 139 § 21. Formerly RCW 28.71.100.]

Reviser's note: RCW 28A.71.100 was amended twice during the 1975 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 session, see RCW 1.12.025.

Severability—1971 ex.s. c 282: See notes following RCW 28A.21.010.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Chapter 28A.72

NEGOTIATIONS BY CERTIFICATED PERSONNEL

Sections

- 28A.72.010 through 28A.72.100 Repealed. (Effective January 1, 1976.)

28A.72.010 through 28A.72.100 Repealed. (Effective January 1, 1976.) See Supplementary Table of Disposition of Former RCW Sections, this volume.

Chapter 28A.85

SEXUAL EQUALITY MANDATED FOR PUBLIC SCHOOLS

Sections

- 28A.85.010 Purpose—Discrimination prohibited.

- 28A.85.020 Regulations, guidelines to eliminate discrimination—
Scope.
28A.85.030 Administration.
28A.85.040 Civil relief for violations.
28A.85.050 Enforcement—Superintendent's orders, scope.
28A.85.900 Chapter supplementary.

Discrimination—Separation of sexes in dormitories, residence halls, etc.: RCW 49.60.222.

28A.85.010 Purpose—Discrimination prohibited. Inequality in the educational opportunities afforded women and girls at all levels of the public schools in Washington state is a breach of Article XXXI, section 1, Amendment 61, of the Washington state Constitution, requiring equal treatment of all citizens regardless of sex. This violation of rights has had a deleterious effect on the individuals affected and on society. Recognizing the benefit to our state and nation of equal educational opportunities for all students, discrimination on the basis of sex for any student in grades K–12 of the Washington public schools is prohibited. [1975 1st ex.s. c 226 § 1.]

Severability—1975 1st ex.s. c 226: "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." [1975 1st ex.s. c 226 § 8.] This applies to RCW 28A.85.010, 28A.85.020, 28A.85.030, 28A.85.040, 28A.85.050 and 28A.85.900.

28A.85.020 Regulations, guidelines to eliminate discrimination—Scope. The superintendent of public instruction shall develop regulations and guidelines to eliminate sex discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students.

(1) Specifically with respect to public school employment, all schools shall be required to:

(a) Maintain credential requirements for all personnel without regard to sex;

(b) Make no differentiation in pay scale on the basis of sex;

(c) Assign school duties without regard to sex except where such assignment would involve duty in areas or situations, such as but not limited to a shower room, where persons might be disrobed.

(d) Provide the same opportunities for advancement to males and females; and

(e) Make no difference in conditions of employment including, but not limited to, hiring practices, leaves of absence, hours of employment, and assignment of, or pay for, instructional and noninstructional duties, on the basis of sex.

(2) Specifically with respect to counseling and guidance services for students, they shall be made available to all students equally. All certificated personnel shall be required to stress access to all career and vocational opportunities to students without regard to sex.

(3) Specifically with respect to recreational and athletic activities, they shall be offered to all students without regard to sex. Schools may provide separate teams for each sex. Schools which provide the following shall do so with no disparities based on sex: Equipment and

supplies; medical care; services and insurance; transportation and per diem allowances; opportunities to receive coaching and instruction; laundry services; assignment of game officials; opportunities for competition, publicity and awards; scheduling of games and practice times including use of courts, gyms, and pools: *Provided*, That such scheduling of games and practice times shall be determined by local administrative authorities after consideration of the public and student interest in attending and participating in various recreational and athletic activities. Each school which provides showers, toilets, or training room facilities for athletic purposes shall provide comparable facilities for both sexes. Such facilities may be provided either as separate facilities or shall be scheduled and used separately by each sex.

The superintendent of public instruction shall also be required to develop a student survey to distribute every three years to each local school district in the state to determine student interest for male/female participation in specific sports.

(4) Specifically with respect to course offerings, all classes shall be required to be available to all students without regard to sex: *Provided*, That separation is permitted within any class during sessions on sex education or gym classes.

(5) Specifically with respect to textbooks and instructional materials, which shall also include, but not be limited to, reference books and audio-visual materials, they shall be required to adhere to the guidelines developed by the superintendent of public instruction to implement the intent of this chapter: *Provided*, That this subsection shall not be construed to prohibit the introduction of material deemed appropriate by the instructor for educational purposes. [1975 1st ex.s. c 226 § 2.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.85.010.

28A.85.030 Administration. The office of the superintendent of public instruction shall be required to monitor the compliance by local school districts with this chapter, shall establish a compliance timetable and regulations for enforcement of this chapter, and shall establish guidelines for affirmative action programs to be adopted by all school districts. [1975 1st ex.s. c 226 § 3.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.85.010.

28A.85.040 Civil relief for violations. Any person aggrieved by a violation of this chapter, or aggrieved by the violation of any regulation or guideline adopted hereunder, shall have a right of action in superior court for civil damages and such equitable relief as the court shall determine. [1975 1st ex.s. c 226 § 4.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.85.010.

28A.85.050 Enforcement—Superintendent's orders, scope. The superintendent of public instruction shall have the power to enforce and obtain compliance with the provisions of this chapter and the regulations

and guidelines adopted pursuant thereto by appropriate order made pursuant to chapter 34.04 RCW, which order, by way of illustration, may include, the termination of all or part of state apportionment or categorical moneys to the offending school district, the termination of specified programs in which violations may be flagrant within the offending school district, the institution of a mandatory affirmative action program within the offending school district, and the placement of the offending school district on probation with appropriate sanctions until compliance is achieved. [1975 1st ex.s. c 226 § 5.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.85.010.

28A.85.900 Chapter supplementary. This chapter shall be supplementary to, and shall not supersede, existing law and procedures and future amendments thereto relating to unlawful discrimination based on sex. [1975 1st ex.s. c 226 § 6.]

Severability—1975 1st ex.s. c 226: See note following RCW 28A.85.010.

Chapter 28A.87

OFFENSES RELATING TO SCHOOLS, SCHOOL PERSONNEL—PENALTIES

Sections

- 28A.87.030 Superintendents of school boards—Defaults of, liability for—Action to recover penalties—Disposition.
- 28A.87.050 ESD superintendent's reports, default in making—Penalty.
- 28A.87.080 Funds, fines, forfeitures, failure to pay over—Penalty—Disposition of fines.
- 28A.87.090 Certain corrupt practices of school officials—Penalty.
- 28A.87.100 Hygiene, failure of directors to provide for teaching—Withholding warrants of board.
- 28A.87.110 Hygiene, failure of ESD superintendent to enforce requirement to teach—Penalty—Disposition of fine—Duty of prosecuting attorney.
- 28A.87.170 Districts using unauthorized textbooks, deviating from study courses, hiring unqualified teachers—Funds withheld.

Beneficial interests in contracts prohibited—Second and third class school districts—Exception: RCW 28A.60.355.

Educational employment relations act: Chapter 41.59 RCW.

Sexual equality mandated for public schools: Chapter 28A.85 RCW.

28A.87.030 Superintendents of school boards—Defaults of, liability for—Action to recover penalties—Disposition. In case any school district superintendent fails to make reports as by law or rule or regulation promulgated thereunder provided, at the proper time and in the proper manner, he shall forfeit and pay to the district the sum of twenty-five dollars for each and every such failure. He shall also be liable, if, through such neglect, the district fails to receive its just apportionment of school moneys, for the full amount so lost. Each and all of said forfeitures shall be recovered in a suit brought by the educational service district superintendent or by any citizen of such district, in the name of and for the benefit of such district, and all moneys so collected shall be paid over to the county treasurer and shall be by him placed to the credit of the

general fund of the district to which it belongs: *Provided*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1975 1st ex.s. c 275 § 140; 1970 ex.s. c 15 § 21. Prior: 1969 ex.s. c 199 § 56; 1969 ex.s. c 176 § 147; 1969 ex.s. c 223 § 28A.87.030; prior: 1909 c 97 p 359 § 6; RRS § 5048; 1903 c 156 § 6; 1897 c 118 § 164; 1890 p 369 § 36. Formerly RCW 28.87.030.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.87.050 ESD superintendent's reports, default in making—Penalty. If any educational service district superintendent fails to make any full and correct report to the superintendent of public instruction of statements required by him or if he shall fail to file with the superintendent of public instruction a full and correct annual report within ten days after the time prescribed by law for filing said report, if any be required, the sum of fifty dollars shall be forfeited from his salary for each such unsatisfactory report, and the proper county officials are hereby authorized and required to deduct therefrom the sum aforesaid upon information from the superintendent of public instruction that such reports have not been made. [1975 1st ex.s. c 275 § 141; 1969 ex.s. c 176 § 148; 1969 ex.s. c 223 § 28A.87.050. Prior: 1909 c 97 p 357 § 2; RRS § 5044; prior: 1897 c 118 § 160; 1890 p 360 § 15. Formerly RCW 28.87.050.]

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.87.080 Funds, fines, forfeitures, failure to pay over—Penalty—Disposition of fines. Any person collecting or receiving any fines, forfeitures or other moneys belonging to the schools of the state of Washington, or belonging to the school fund of any county, school district or educational service district in this state, and refusing or failing to pay over the same as required by law, shall be liable for double the amount so withheld, and in addition thereto, interest thereon at the rate of five percent per month during the time of so withholding the same; and it shall be a special duty of the educational service district superintendent to supervise and see that the provisions of this section are fully complied with, including the initiation of court actions therefor, and report thereon to the appropriate county commissioners at least semiannually. Fines and penalties, exclusive of any moneys recovered belonging to the school fund of any county, school district or educational service district in this state, when collected, shall be turned over to the county treasurer and by him transmitted to the state treasurer who shall place the same to the credit of the current school fund of the state: *Provided*, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. [1975 1st ex.s. c 275 § 142; 1970 ex.s. c

15 § 22. Prior: 1969 ex.s. c 199 § 59; 1969 ex.s. c 176 § 149; 1969 ex.s. c 223 § 28A.87.080; prior: 1909 c 97 p 357 § 3; RRS § 5045; 1903 c 156 § 3; 1897 c 118 § 161; 1890 p 383 § 89. Formerly RCW 28.87.080.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

Rights preserved—Severability—1969 ex.s. c 176: See note following RCW 28A.21.010.

28A.87.090 Certain corrupt practices of school officials—Penalty. Except as otherwise provided in chapter 42.23 RCW, it shall be unlawful for any member of the state board of education, the superintendent of public instruction or any employee of his office, any educational service district superintendent, any school district superintendent or principal, or any director of any school district, to request or receive, directly or indirectly, anything of value for or on account of his influence with respect to any act or proceeding of the state board of education, the office of the superintendent of public instruction, any office of educational service district superintendent or any school district, or any of these, when such act or proceeding shall inure to the benefit of those offering or giving the thing of value.

Any wilful violation of the provisions of this section shall be a misdemeanor and punished as such. [1975 1st ex.s. c 275 § 143; 1969 ex.s. c 176 § 150; 1969 ex.s. c 223 § 28A.87.090. Prior: 1917 c 126 § 1; RRS § 5050. Formerly RCW 28.87.090.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.87.100 Hygiene, failure of directors to provide for teaching—Withholding warrants of board. Upon complaint in writing being made to any educational service district superintendent by any registered voter of the school district complained against that the board of directors of the district have failed to make provision for the teaching of hygiene, with special reference to the effects of alcoholic drink, stimulants and narcotics upon the human system, or have failed to require students to take such course, it shall be the duty of such educational service district superintendent to investigate at once the matter of such complaint, and if found to be true, he shall immediately notify the proper county officials of the county in which such school district is located thereof, and after the receipt of such notice, it shall be the duty of such officials to refuse to issue or register any warrants drawn upon such district subsequent to the date of such notice and until they shall be notified to do so by such educational service district superintendent. Whenever it shall be made to appear to the said educational service district superintendent, and he shall be satisfied that the board of directors of such district are complying with the requirements of this section relating to the teaching of physiology and hygiene, he shall notify said county officials, and said officials shall thereupon issue and register the warrants of said district. [1975 1st ex.s. c 275 § 144; 1969 ex.s. c 176 § 151; 1969 ex.s. c 223 § 28A.87.100. Prior: 1909 c 97 p 358 § 4; RRS § 5046; prior: 1903 c 156 § 4; 1897 c 118 § 161; 1890 p 383 § 89. Formerly RCW 28.87.100.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.87.110 Hygiene, failure of ESD superintendent to enforce requirement to teach—Penalty—Disposition of fine—Duty of prosecuting attorney. Any educational service district superintendent who shall fail or refuse to comply with the provisions of RCW 28A.87.100 shall be liable to a penalty of one hundred dollars, to be recovered in a civil action in the name of the state in any court of competent jurisdiction, and the sum recovered shall go into the state current school fund; and it shall be the duty of the prosecuting attorneys of the several counties of the state to see that the provisions of this section are enforced. [1975 1st ex.s. c 275 § 145; 1969 ex.s. c 176 § 152; 1969 ex.s. c 223 § 28A.87.110. Prior: 1909 c 97 p 358 § 5; RRS § 5047; prior: 1903 c 156 § 5; 1897 c 118 § 163; 1890 p 385 § 91. Formerly RCW 28.87.110.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.87.170 Districts using unauthorized textbooks, deviating from study courses, hiring unqualified teachers—Funds withheld. Any school district using textbooks other than those prescribed by lawful authority, or any district failing to comply with the course of study prescribed by the state board of education or by other lawful authority, or any district in which warrants are issued to a teacher not legally qualified to teach in the common schools of the said district, shall have withheld twenty-five percent of their school fund for that or the subsequent year, and it is hereby made the duty of the educational service district superintendent to deduct said amount from the apportionment to be made to any district failing in either or all of the above requirements, and the amounts thus deducted shall be withheld until the educational service district superintendent shall ascertain such situation no longer exists. [1975 1st ex.s. c 275 § 146; 1969 ex.s. c 176 § 153; 1969 ex.s. c 223 § 28A.87.170. Prior: 1909 c 97 p 361 § 15; RRS § 5058; prior: 1903 c 156 § 15; 1897 c 118 § 174. Formerly RCW 28.87.170.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Chapter 28A.88

APPEALS FROM ACTION OR NONACTION OF SCHOOL OFFICIALS AND SCHOOL BOARDS

Sections

28A.88.010 Appeals—Notice of—Scope—Time limitation.

Educational employment relations act: Chapter 41.59 RCW.

28A.88.010 Appeals—Notice of—Scope—Time limitation.

RCW 28A.88.010 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

Title 28B HIGHER EDUCATION

Chapters

- 28B.10 Colleges and universities generally.
- 28B.14 1975 Bond issue for capital improvements for institutions of higher education.
- 28B.15 College and university fees.
- 28B.16 State higher education personnel law.
- 28B.20 University of Washington.
- 28B.30 Washington State University.
- 28B.40 State colleges.
- 28B.50 Community college act of 1967 (and community colleges generally).
- 28B.52 Negotiations by academic personnel—Community college districts.
- 28B.57 1975 Community college special capital projects bond act.
- 28B.58 1975 Community college general capital projects bond act.
- 28B.80 Council for postsecondary education in the state of Washington (Formerly: Council on higher education in the state of Washington).
- 28B.81 Commission on higher education.

Discrimination—Separation of sexes in dormitories, residence halls, etc.: RCW 49.60.222.

Chapter 28B.10 COLLEGES AND UNIVERSITIES GENERALLY

Sections

- 28B.10.180 Repealed.
- 28B.10.295 Educational materials on abuses of, and illnesses consequent from, alcohol.
- 28B.10.400 Annuities and retirement income plans—Authorized.
- 28B.10.665 Liability insurance for officers and employees authorized.
- 28B.10.802 State student financial aid program—Definitions.
- 28B.10.840 Definitions for purposes of RCW 28B.10.840 through 28B.10.844.
- 28B.10.842 Actions against regents, trustees, officers, employees, or agents of institutions of higher education or educational boards—Defense—Costs—Payment of obligations from fund.

28B.10.180 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.10.295 Educational materials on abuses of, and illnesses consequent from, alcohol. The boards of regents of the state's universities, the boards of trustees of the respective state colleges, and the boards of trustees of the respective community colleges, with the cooperation of the state board for community college education, shall make available at some place of prominence within the premises of each campus educational materials on the abuses of alcohol in particular and the illnesses consequent therefrom in general: *Provided*, That such materials shall be obtained from public or private organizations at no cost to the state. [1975 1st ex.s. c 164 § 2.]

Legislative recognition of community alcohol centers: "The legislature recognizes the invaluable services performed by the community alcohol centers throughout the state, which centers would view making available such educational materials as referred to in section 2 of

this act as a part of their community outreach education and preventive program and for which material no fees would be charged." [1975 1st ex.s. c 164 § 1.] Reference to "section 2 of this act" [1975 1st ex.s. c 164] means RCW 28B.10.295 above.

28B.10.400 Annuities and retirement income plans—Authorized. The boards of regents of the state universities, the boards of trustees of the state colleges, and the state board for community college education are authorized and empowered:

(1) To assist the faculties and such other employees as any such board may designate in the purchase of old age annuities or retirement income plans under such rules and regulations as any such board may prescribe. County agricultural agents, home demonstration agents, 4-H club agents, and assistant county agricultural agents paid jointly by the Washington State University and the several counties shall be deemed to be full time employees of the Washington State University for the purposes hereof;

(2) To provide, under such rules and regulations as any such board may prescribe for the faculty members or other employees under its supervision, for the retirement of any such faculty member or other employee on account of age or condition of health, retirement on account of age to be not earlier than the sixty-fifth birthday: *Provided*, That such faculty member or such other employee may elect to retire at the earliest age specified for retirement by federal social security law: *Provided further*, That any supplemental payment authorized by subsection (3) of this section and paid as a result of retirement earlier than age sixty-five shall be at an actuarially reduced rate;

(3) To pay to any such retired person or his surviving spouse, each year after his retirement, an amount which, when added to the amount of such annuity or retirement income plan received by him or his surviving spouse in such year, will not exceed fifty percent of the average annual salary paid to such retired person for his highest two consecutive years of full time service at an institution of higher education: *Provided, however*, That if such retired person prior to his retirement elected a supplemental payment survivors option, any such supplemental payments to such retired person or his surviving spouse shall be at actuarially reduced rates: *Provided further*, That if a faculty member or other employee of the University of Washington or Washington State University who is a participant in a retirement plan authorized by this section dies, or has died before retirement but after becoming eligible for retirement on account of age, the surviving spouse shall be entitled to receive the supplemental payment authorized by this subsection (3) of this section to which such surviving spouse would have been entitled had said deceased faculty member or other employee retired on the date of death after electing a supplemental payment survivors option. [1975 1st ex.s. c 212 § 1; 1973 1st ex.s. c 149 § 1; 1971 ex.s. c 261 § 1; 1969 ex.s. c 223 § 28B.10.400. Prior: 1965 c 54 § 2; 1957 c 256 § 1; 1955 c 123 § 1; 1947 c 223 § 1; 1943 c 262 § 1; 1937 c 223 § 1; Rem. Supp. 1947 § 4543-11. Formerly RCW 28.76.240.]

Severability—1973 1st ex.s. c 149: "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 149 § 9.]

Appropriation—1973 1st ex.s. c 149: "The sum of \$1,611,650 is hereby appropriated from the general fund for the purpose of carrying out this 1973 amendatory act, to be allocated by the governor to the institutions of higher education." [1973 1st ex.s. c 149 § 10.]

Effective date—1973 1st ex.s. c 149: "This 1973 amendatory act shall take effect on July 1, 1974." [1973 1st ex.s. c 149 § 11.]

The above annotations apply to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and 83.20.030 and the repeal of RCW 28B.50.570, 28B.50.571, 28B.50.572, 28B.50.573, 28B.50.574 and 28B.50.575.

Severability—1971 ex.s. c 261: "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 261 § 7.] This applies to RCW 28B.10.400 through 28B.10.417.

28B.10.665 Liability insurance for officers and employees authorized. See RCW 36.16.138.

28B.10.802 State student financial aid program—Definitions. As used in RCW 28B.10.800 through 28B.10.824:

(1) "Institutions of higher education" shall mean any public or private college, university or community college in the state of Washington which is accredited by the Northwest Association of Secondary and Higher Schools; and an institute of higher education shall also mean any public vocational-technical institute in the state of Washington.

(2) The term "financial aid" shall mean loans and/or grants to needy students enrolled or accepted for enrollment as a full time student at institutions of higher education.

(3) The term "needy student" shall mean a post high school student of an institution of higher learning as defined in subsection (1) above who demonstrates to the commission the financial inability, either through his parents, family and/or personally, to meet the total cost of board, room, books, and tuition and incidental fees for any semester or quarter.

(4) The term "disadvantaged student" shall mean a post high school student who by reason of adverse cultural, educational, environmental, experiential, familial or other circumstances is unable to qualify for enrollment as a full time student in an institution of higher learning, who would otherwise qualify as a needy student, and who is attending an institution of higher learning under an established program designed to qualify him for enrollment as a full time student.

(5) "Commission" shall mean the council for postsecondary education created in RCW 28B.80.010 as now or hereafter amended. [1975 1st ex.s. c 132 § 16; 1969 ex.s. c 222 § 8. Formerly RCW 28.76.440.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.10.840 Definitions for purposes of RCW 28B.10.840 through 28B.10.844. The term "institution of higher education" whenever used in RCW 28B.10.840 through 28B.10.844, shall be held and construed to mean any public institution of higher education in Washington. The term "educational board" whenever used in RCW

28B.10.840 through 28B.10.844, shall be held and construed to mean the state board for community college education and the council on [for] postsecondary education. [1975 1st ex.s. c 132 § 17; 1972 ex.s. c 23 § 1.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.10.842 Actions against regents, trustees, officers, employees, or agents of institutions of higher education or educational boards—Defense—Costs—Payment of obligations from fund. Whenever any action, claim, or proceeding is instituted against any regent, trustee, officer, employee, or agent of an institution of higher education or member of the governing body, officer, employee, or agent of an educational board arising out of the performance or failure of performance of duties for, or employment with such institution or educational board, the board of regents or board of trustees of the institution or governing body of the educational board may grant a request by such person that the attorney general be authorized to defend said claim, suit, or proceeding, and the costs of defense of such action shall be paid from the appropriation made for the support of the institution or educational board to which said person is attached. If a majority of the members of a board of regents or trustees or educational board is or would be personally affected by such findings and determination, or is otherwise unable to reach any decision on the matter, the attorney general is authorized to grant a request. When a request for defense has been authorized, then any obligation for payment arising from such action, claim, or proceedings shall be paid from the tort claims revolving fund, notwithstanding the nature of the claim, pursuant to the provisions of RCW 4.92.130 through 4.92.170, as now or hereafter amended: *Provided*, That this section shall not apply unless the authorizing body has made a finding and determination by resolution that such regent, trustee, member of the educational board, officer, employee, or agent was acting in good faith. [1975 c 40 § 4; 1972 ex.s. c 23 § 2.]

Chapter 28B.14 1975 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

Sections

- 28B.14.010 Bonds authorized—Amount—Consideration for minority contractors on projects so funded.
- 28B.14.020 Bond anticipation notes—Authorized—Payment.
- 28B.14.030 Form, terms, conditions, sale and covenants of bonds and notes.
- 28B.14.040 Disposition of proceeds from sale of bonds and notes—Use.
- 28B.14.050 1975 state higher education bond retirement fund—Created—Purpose.
- 28B.14.060 Bonds as legal investment for public funds.

28B.14.010 Bonds authorized—Amount—Consideration for minority contractors on projects so funded. For the purpose of providing needed capital improvements consisting of the acquisition, construction, remodeling, furnishing and equipping of state buildings

and facilities for the institutions of higher education, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of twelve million four hundred thousand one hundred dollars, or so much thereof as shall be required to finance the capital projects relating to institutions of higher education as determined by the legislature in its capital appropriations act, chapter 276, Laws of 1975 1st ex. sess., for such purposes, to be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1, of the Constitution of the state of Washington. It is the intent of the legislature that in any decision to contract for capital projects funded as the result of this chapter, full and fair consideration shall be given to minority contractors. [1975 1st ex.s. c 237 § 1.]

Severability—1975 1st ex.s. c 237: "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, shall in no way be affected." [1975 1st ex.s. c 237 § 8.] This applies to RCW 28B.14.010, 28B.14.020, 28B.14.030, 28B.14.040, 28B.14.050 and 28B.14.060.

28B.14.020 Bond anticipation notes—Authorized—Payment. When the state finance committee has determined to issue such general obligation bonds or a portion thereof as authorized in RCW 28B.14.010, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued. [1975 1st ex.s. c 237 § 2.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

28B.14.030 Form, terms, conditions, sale and covenants of bonds and notes. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes provided for in RCW 28B.14.010 and 28B.14.020, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and interest thereon when due. [1975 1st ex.s. c 237 § 3.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

28B.14.040 Disposition of proceeds from sale of bonds and notes—Use. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.14.020, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to

deposit therein, shall be deposited in the state higher education construction account of the general fund in the state treasury. All such proceeds shall be used exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975 1st ex.s. c 237 § 4.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

28B.14.050 1975 state higher education bond retirement fund—Created—Purpose. The 1975 state higher education bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and the interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 state higher education bond retirement fund an amount equal to the amount certified by the state finance committee. [1975 1st ex.s. c 237 § 5.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

28B.14.060 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 237 § 6.]

Severability—1975 1st ex.s. c 237: See note following RCW 28B.14.010.

Chapter 28B.15 COLLEGE AND UNIVERSITY FEES

Sections

- 28B.15.225 Exemption from payment of certain fees of school of medicine at University of Washington.
28B.15.540 Waiver of tuition and fees for residents sixty years of age or older—Limitations.

28B.15.225 Exemption from payment of certain fees of school of medicine at University of Washington. The board of regents of the University of Washington may exempt from payment of the nonresident portion of the legally-established student tuition and fees, any student admitted to the university's school of medicine pursuant to any contracts with the states of Alaska, Montana, or Idaho, or agencies thereof, providing for a program of regionalized medical education conducted by said school of medicine, which contracts provide that the proportional cost of such program and in excess of resident student tuition and fees will be reimbursed to the university by or on behalf of said states or agencies thereof. [1975 1st ex.s. c 105 § 1.]

28B.15.540 Waiver of tuition and fees for residents sixty years of age or older—Limitations. Notwithstanding any other provision of this chapter or the laws of this state and consistent with the regulations and procedures established by the boards of trustees of the state colleges, the boards of regents of the state universities and the state board for community college education each institution may for Washington residents who are sixty years of age or older:

(1) Waive, in whole or in part, the tuition, operating and services and activities fees for students who qualify under this section and who are enrolled for credit, and

(2) Waive the tuition, operating and services and activities fees for students who qualify under this section, but charge a nominal fee not to exceed five dollars per quarter, or semester, as the case may be, for such students who are enrolled on an audit basis: *Provided*, That residents enrolling with fee exemptions under this section shall register for not more than two quarter or semester courses at one time on a space available basis, and no new course sections shall be created as a direct result of such registration: *Provided further*, That such waivers shall not be available to students who plan to use the course credits gained thereby for increasing credentials or salary schedule increases: *Provided further*, That enrollment information concerning fee exemptions awarded under this section shall be maintained separately from other enrollment information but shall not be included in official enrollment reports: *Provided*, That persons who enroll pursuant to provisions of this section shall not be considered for any purpose in determining student-teacher ratio, nor for any purpose relating to enrollment totals, nor any other statistic which would affect budgetary determinations. Persons enrolling under the provisions of this section shall have, in equal with all other students, access to course counseling services and shall be subject to all course prerequisite requirements. [1975 1st ex.s. c 157 § 2.]

Purpose—1975 1st ex.s. c 157: "In recognition of the worthwhile goal of making education a life-long process, it is the declared desire of the legislature to promote the availability of postsecondary education for the state's older residents." [1975 1st ex.s. c 157 § 1.] This applies to RCW 28B.15.540.

Chapter 28B.16

STATE HIGHER EDUCATION PERSONNEL LAW

Sections

28B.16.100 Rules and regulations—Scope.

28B.16.110 Rules and regulations—Salary schedules and compensation plans to reflect prevailing wages—Periodic wage surveys with recommended salary adjustments, report of.

28B.16.100 Rules and regulations—Scope. (1) The higher education personnel board shall adopt and promulgate rules and regulations, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis for, and procedures to be followed for, the dismissal, suspension, or demotion of an employee, and appeals therefrom; certification of names for vacancies, including promotions, with the number of names equal

to two more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists; examination for all positions in the competitive and noncompetitive service; appointments; probationary periods of six months and rejections therein; transfers, sick leaves and vacations; hours of work; layoffs when necessary and subsequent reemployment, both according to seniority; determination of appropriate bargaining units within any institution or related boards: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees; certification and decertification of exclusive bargaining representatives; after certification of an exclusive bargaining representative and upon said representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such condition of employment shall constitute cause for dismissal: *Provided*, That no more often than once in each twelve month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: *Provided further*, That for purposes of this clause membership in the certified exclusive bargaining representative shall be satisfied by the payment of monthly or other periodic dues and shall not require payment of initiation, reinstatement or any other fees or fines and shall include full and complete membership rights: *And provided further*, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but shall be entitled to all the representation rights of a union member; agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution or the related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the institution and the employee organization: *Provided*, That nothing

contained herein shall permit or grant to any employee the right to strike or refuse to perform his official duties; adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position; allocation and reallocation of positions within the classification plan; training programs including in-service, promotional, and supervisory; regular increment increases within the series of steps for each pay grade, based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service; and adoption and revision of salary schedules and compensation plans which reflect not less than the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature and which shall be competitive in the locality in which the institution or related boards are located, such adoption, revision, and implementation subject to approval as to availability of funds by the director of the office of program planning and fiscal management in accordance with the provisions of chapter 43.88 RCW, and after consultation with the chief financial officer of each institution or related board for that institution or board, or in the case of community colleges, by the chief financial officer of the state board for community college education for the various community colleges; and providing for veteran's preference as provided by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken higher education service, as defined by the board, the veteran's service in the military not to exceed five years of such service. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: *Provided, however,* That the widow of a veteran shall be entitled to the benefits of this section regardless of the veteran's length of active military service: *Provided further,* That for the purposes of this section "veteran" shall not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month.

(2) Rules and regulations adopted and promulgated by the higher education personnel board shall provide for local administration and management by the institutions of higher education and related boards, subject to periodic audit and review by the board, of the following:

- (a) Appointment, promotion, and transfer of employees;
- (b) Dismissal, suspension, or demotion of an employee;
- (c) Examinations for all positions in the competitive and noncompetitive service;
- (d) Probationary periods of six months and rejections therein;
- (e) Sick leaves and vacations;
- (f) Hours of work;
- (g) Layoffs when necessary and subsequent reemployment;
- (h) Allocation and reallocation of positions with the classification plans;
- (i) Training programs;
- (j) Maintenance of personnel records. [1975 1st ex.s. c 122 § 1; 1973 1st ex.s. c 75 § 2; 1973 c 154 § 2; 1971 ex.s. c 19 § 1; 1969 ex.s. c 36 § 10. Formerly RCW 28.75.100.]

Severability—1975 1st ex.s. c 122: "If any provision of this 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." [1975 1st ex.s. c 122 § 3.] This applies to RCW 28B.16.100 and 28B.16.110.

Effective date—1973 1st ex.s. c 75: See note following RCW 41.06.150.

Positions under college work-study program to be identified as to job classification: RCW 28B.12.060.

28B.16.110 Rules and regulations—Salary schedules and compensation plans to reflect prevailing wages—Periodic wage surveys with recommended salary adjustments, report of. The salary schedules and compensation plans, adopted and revised as provided in RCW 28B.16.100 as now or hereafter amended, shall reflect not less than prevailing rates in private industries and other governmental units for positions of a similar nature in the locality in which the institution or related board is located. For this purpose periodic wage surveys shall be undertaken by the board with the assistance of the various personnel officers of the institutions of higher education, with one such survey to be conducted each year prior to the convening of each regular session of the state legislature. The results of such wage survey shall be forwarded with recommended salary adjustments, which recommendations shall be advisory only, to the governor and the director of the office of program planning and fiscal management for their use in preparing budgets to be submitted to the succeeding legislature. [1975 1st ex.s. c 122 § 2; 1969 ex.s. c 36 § 11. Formerly RCW 28.75.110.]

Chapter 28B.20 UNIVERSITY OF WASHINGTON

Sections

- 28B.20.750 Hospital project bonds—State general obligation bonds in lieu of revenue bonds.
- 28B.20.751 Hospital project bonds—Amount authorized.
- 28B.20.752 Hospital project bonds—Bond anticipation notes, authorized, payment.
- 28B.20.753 Hospital project bonds—Form, terms, conditions, sale, and covenants for bonds and notes.
- 28B.20.754 Hospital project bonds—Disposition of proceeds.

- 28B.20.755 Hospital project bonds—Administration of proceeds from bonds and notes.
- 28B.20.756 Hospital project bonds—1975 University of Washington hospital bond retirement fund, created, purpose.
- 28B.20.757 Hospital project bonds—Regents to accumulate moneys for bond payments.
- 28B.20.758 Hospital project bonds—As legal investment for public funds.
- 28B.20.759 Hospital project bonds—Prerequisite to issuance.

28B.20.750 Hospital project bonds—State general obligation bonds in lieu of revenue bonds. The legislature has previously approved by its appropriation of funds from time to time, a capital improvement project for the University of Washington hospital, which project was to be partly funded by the issuance, by the university board of regents, of revenue bonds payable from certain university hospital fees. In order that such project may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest that state general obligation bonds be issued to provide part of the funds for such project in lieu of revenue bonds. [1975 1st ex.s. c 88 § 1.]

Severability—1975 1st ex.s. c 88: "If any provision of this 1975 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, shall in no way be affected." [1975 1st ex.s. c 88 § 12.] This applies to RCW 28B.20.750, 28B.20.751, 28B.20.752, 28B.20.753, 28B.20.754, 28B.20.755, 28B.20.756, 28B.20.757, 28B.20.758 and 28B.20.759.

28B.20.751 Hospital project bonds—Amount authorized. For the purpose of providing financing for needed acquisition, construction, remodeling, furnishing or equipping of buildings and facilities of the University of Washington hospital, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of eight million dollars, or so much thereof as shall be required to finance the university hospital improvements project described in RCW 28B.20.750, to be paid and discharged within thirty years of the date of issuance, in accordance with Article VIII, section 1, of the Constitution of the state of Washington. [1975 1st ex.s. c 88 § 2.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.752 Hospital project bonds—Bond anticipation notes, authorized, payment. When the state finance committee has determined to issue such general obligation bonds or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued. [1975 1st ex.s. c 88 § 3.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.753 Hospital project bonds—Form, terms, conditions, sale, and covenants for bonds and notes. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due. [1975 1st ex.s. c 88 § 4.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.754 Hospital project bonds—Disposition of proceeds. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.20.752, the proceeds from the sale of the bonds and/or bond anticipation notes authorized herein, together with all grants, donations, transferred funds and other moneys which the state finance committee or the board of regents of the University of Washington may direct the state treasurer to deposit therein, shall be deposited in the building authority construction account in the state treasury. [1975 1st ex.s. c 88 § 5.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.755 Hospital project bonds—Administration of proceeds from bonds and notes. Subject to legislative appropriation, all proceeds of the bonds and/or bond anticipation notes authorized in RCW 28B.20.750 through 28B.20.759 shall be administered and expended by the board of regents of the University of Washington exclusively for the purposes specified in RCW 28B.20.750 through 28B.20.759 and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975 1st ex.s. c 88 § 6.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.756 Hospital project bonds—1975 University of Washington hospital bond retirement fund, created, purpose. The 1975 University of Washington hospital bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to RCW 28B.20.750 through 28B.20.759.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 University of Washington hospital bond retirement fund an amount equal to the amount certified by the state finance committee. [1975 1st ex.s. c 88 § 7.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.757 Hospital project bonds—Regents to accumulate moneys for bond payments. On or before June 30th of each year, the board of regents of the university shall cause to be accumulated, in an appropriate local fund, from fees charged patients of the university hospital and other moneys legally available for such purposes, an amount at least equal to the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on the bonds issued pursuant to RCW 28B.20.750 through 28B.20.759. Notwithstanding the provisions of RCW 28B.15.220, on July 1st of each such year the board of regents of the university shall cause to be paid to the state treasurer for deposit into the general fund of the state treasury, the sum so accumulated. [1975 1st ex.s. c 88 § 8.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.758 Hospital project bonds—As legal investment for public funds. The bonds authorized in RCW 28B.20.750 through 28B.20.759 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 88 § 9.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

28B.20.759 Hospital project bonds—Prerequisite to issuance. The bonds authorized in RCW 28B.20.750 through 28B.20.759 shall be issued only after the university board of regents has certified to the state finance committee that projected revenue from fees charged patients of the university hospital shall be adequate, based upon reasonable projections for that revenue, to enable the board of regents to meet the requirement of RCW 28B.20.757 during the life of the bonds proposed to be issued. [1975 1st ex.s. c 88 § 10.]

Severability—1975 1st ex.s. c 88: See note following RCW 28B.20.750.

Chapter 28B.30

WASHINGTON STATE UNIVERSITY

Sections

- 28B.30.600 Tree fruit research center facility, financing—Bonds authorized for—Amount—Discharge.
- 28B.30.604 Tree fruit research center facility, financing—Anticipation notes authorized—Office-laboratory construction account created, use.
- 28B.30.606 Tree fruit research center facility, financing—Administration of proceeds from sale of bonds or notes—Investment of surplus funds.
- 28B.30.610 Tree fruit research center facility, financing—Office-laboratory facilities bond redemption fund created, use.
- 28B.30.614 Tree fruit research center facility, financing—Lease agreement prerequisite to sale of bonds—Disposition of lease payments.
- 28B.30.619 Tree fruit research center facility, financing—Appropriation.

28B.30.600 Tree fruit research center facility, financing—Bonds authorized for—Amount—Discharge. For the purpose of funding and providing the planning,

construction, furnishing and equipping, together with all improvements thereon, of an office-laboratory facility at Washington State University Tree Fruit Research Center, the state finance committee is authorized to issue general obligation bonds of the state of Washington in the sum of one million nine hundred fifty thousand dollars, or so much thereof as may be required, to finance the project defined in RCW 28B.30.600 through 28B.30.619 and all costs incidental thereto. Such bonds shall be paid and discharged within thirty years of the date of issuance in accordance with Article VIII, section 1 of the state Constitution. [1975 1st ex.s. c 109 § 1; 1974 ex.s. c 109 § 1.]

Severability—1975 1st ex.s. c 109: "If any provision of this 1975 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." [1975 1st ex.s. c 109 § 7.] This applies to RCW 28B.30.600, 28B.30.604, 28B.30.606, 28B.30.610, 28B.30.614 and 28B.30.619.

Severability—1974 ex.s. c 109: "If any provision of this 1974 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 ex.s. c 109 § 14.] This applies to RCW 28B.30.600, 28B.30.602, 28B.30.604, 28B.30.606, 28B.30.608, 28B.30.610, 28B.30.612, 28B.30.614, 28B.30.616, 28B.30.618 and 28B.30.619.

28B.30.604 Tree fruit research center facility, financing—Anticipation notes authorized—Office-laboratory construction account created, use. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuance of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of the bonds, which notes shall be designated as "anticipation notes". The proceeds from the sale of bonds and notes authorized by RCW 28B.30.600 through 28B.30.619 shall be deposited in the office-laboratory construction account hereby created in the general fund of the state treasury and shall be used exclusively for the purposes specified in RCW 28B.30.600 through 28B.30.619 and for the payment of expenses incurred in the issuance and sale of bonds: *Provided*, That such portion of the proceeds of the sale of such bonds as may be required for the payment of the principal and interest on such anticipation notes as have been issued, shall be deposited in the bond redemption fund created in RCW 28B.30.610. [1975 1st ex.s. c 109 § 2; 1974 ex.s. c 109 § 3.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.606 Tree fruit research center facility, financing—Administration of proceeds from sale of bonds or notes—Investment of surplus funds. The principal proceeds from the sale of the bonds or notes deposited in the office-laboratory construction account of the general fund shall be administered by Washington State University. Whenever there is a surplus of funds available in the office-laboratory construction account of the general fund to meet current expenditures payable therefrom, the state finance committee may invest such

portion of said funds as the university deems appropriate in securities issued by the United States or agencies of the United States government as defined by RCW 43.84.080 (1) and (4). All income received from such investments shall be deposited to the credit of the bond retirement fund created in RCW 28B.30.610. [1975 1st ex.s. c 109 § 3; 1974 ex.s. c 109 § 4.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.610 Tree fruit research center facility, financing—Office-laboratory facilities bond redemption fund created, use. The office-laboratory facilities bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of the principal of and interest on the bonds and notes authorized by RCW 28B.30.600 through 28B.30.619. The state finance committee, shall, on or before June 30th of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet such bond retirement and interest requirements which may exceed cash available in the bond redemption fund from rental revenues, and on July 1st of each year the state treasurer shall deposit such amount in the office-laboratory facilities bond redemption fund from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues. [1975 1st ex.s. c 109 § 4; 1974 ex.s. c 109 § 6.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.614 Tree fruit research center facility, financing—Lease agreement prerequisite to sale of bonds—Disposition of lease payments. None of the bonds authorized in RCW 28B.30.600 through 28B.30.619 shall be sold unless a long-term lease agreement shall be entered into between Washington State University and the general services administration of the federal government providing for the joint occupancy of this facility by the United States Department of Agriculture and Washington State University. The lease payments by the federal government or any other funds which may be legally pledged for such purpose, shall provide for the amortization of the principal of and interest on the bonds authorized by RCW 28B.30.600 through 28B.30.619 as certified by the state finance committee, in addition to custodial, maintenance and utility services costs. All annual lease payments received by the university for payment of the principal and interest on the bonds shall be forthwith remitted by the university and deposited in the state treasury to the credit of the office-laboratory facilities bond redemption fund. [1975 1st ex.s. c 109 § 5; 1974 ex.s. c 109 § 8.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.619 Tree fruit research center facility, financing—Appropriation. There is hereby appropriated to Washington State University from the office-laboratory construction account of the general fund, out of the sale of the bonds or notes authorized by RCW 28B.30.600 through 28B.30.619, the sum of one million nine hundred fifty thousand dollars, or such lesser amount as may be required, to finance the planning, construction, furnishing and equipping, together with all improvements thereon, of the facility authorized by RCW 28B.30.600 through 28B.30.619. [1975 1st ex.s. c 109 § 6; 1974 ex.s. c 109 § 11.]

Severability—1975 1st ex.s. c 109: See note following RCW 28B.30.600.

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

Chapter 28B.40 STATE COLLEGES

Sections

- 28B.40.205 Degrees through master's degrees authorized—
Limitations.
- 28B.40.210 Repealed.
- 28B.40.226 Repealed.
- 28B.40.380 Extension departments.

28B.40.205 Degrees through master's degrees authorized—Limitations. In addition to all other powers and duties given to them by law, Central Washington State College, Eastern Washington State College, and Western Washington State College are hereby authorized to grant any degree through the master's degree to any student who has completed a program of study and/or research in those areas which are determined by the faculty and board of trustees of the college to be appropriate for the granting of such degree: *Provided*, That any degree authorized under this section which has no fiscal impact shall be subject to the review and recommendation of the *council for postsecondary education: *Provided further*, That any degree permitted under this section having additional fiscal impact shall not be authorized prior to review and recommendation by the *council for postsecondary education and approval of the legislature. [1975 1st ex.s. c 232 § 1.]

***Reviser's note:** "council for postsecondary education" is herein substituted for "council on higher education", see [1975 1st ex.s. c 132 § 1], RCW 28B.80.010.

28B.40.210 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.40.226 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.40.380 Extension departments. In order to assist teachers in service, candidates for certificates, and others, each state college shall establish and maintain an extension department. The work of the department may supplement the previous training of teachers in service and comprise subjects included in the state college curriculum, or otherwise.

In order to prevent overlapping of territory in connection with this extension work, the state board of education shall district the state making a definite assignment of territory to each institution: *Provided*, That such assignments of territory shall not preclude any other contractual arrangements initiated by a state college to carry out its duties under this section. The head of the extension department of each state college, after being assigned specific territory, shall cooperate with the several educational service district superintendents or educational executive officers of the educational service districts in making public the courses or seminars available for each year, such information being forwarded by the head of the extension department to the state superintendent of public instruction.

A report of the work accomplished by any such extension department during the preceding school year shall be made by the board of trustees upon request of the governor or any member of the legislature. [1975 1st ex.s. c 275 § 147; 1969 ex.s. c 176 § 155; 1969 ex.s. c 223 § 28B.40.380. Prior: 1965 c 139 § 23; 1917 c 128 § 5; RRS § 4617. Formerly RCW 28.81.100, 28.71.080, 28.81.050, part.]

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

Chapter 28B.50

COMMUNITY COLLEGE ACT OF 1967

(AND COMMUNITY COLLEGES GENERALLY)

Sections

- 28B.50.020 Purpose.
- 28B.50.050 State board for community college education—Created—Members—Appointment—Terms—Qualifications—Per diem and mileage—Removal.
- 28B.50.060 Director of the state system of community colleges—Appointment—Term—Qualifications—Salary and expenses—Duties.
- 28B.50.092 College board—Program for military personnel—Restrictions as to high school completion program.
- 28B.50.160 through 28B.50.200 Repealed.
- 28B.50.211 Decodified.
- 28B.50.220 Repealed.
- 28B.50.221 through 28B.50.246 Recodified.
- 28B.50.535 Community college may issue high school diploma or certificate, limitation.
- 28B.50.551 Leave provisions generally.
- 28B.50.770 Repealed.
- 28B.50.851 Faculty tenure—Definitions.

Commission for vocational education, director of the state board for community college education as members: RCW 28C.04.030.

1975 community college general capital projects bond, act: Chapter 28B.58 RCW.

1975 community college special capital projects bond act: Chapter 28B.57 RCW.

Walla Walla community college, expo facilities for—Appropriation for: "There is hereby appropriated from the state general fund to the state board of community colleges for allocation to district 20, Walla Walla community college, the sum of two hundred ninety-two thousand seven hundred twenty-five dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1977, for the purpose of providing funds for the acquisition of the republic of China's exposition pavilion located at Spokane, Washington, including (1) the removal of the said pavilion to the campus of the Walla Walla community college, (2) the placement of such pavilion on the said campus, (3) the provision of utility services, (4) all necessary improvements to the site at Walla Walla community college and the refurbishing and equipping of the pavilion as may be required for its use as a performing arts facility, and (5) the repair of the exposition

site of the said pavilion from which it will be removed as required by the Spokane exposition: *Provided*, That the amount of \$292,725 of the Phase II appropriation, or as much thereof as is available following completion of the Phase II facilities authorized under the provisions of section 2 of this act, shall be reimbursed to the state general fund." [1975 1st ex.s. c 141 § 1.]

Walla Walla community college, expo facilities for—Allotment adjustments authorized: "In addition to the authority granted in section 1 of this act, Walla Walla community college is hereby authorized to make necessary allotment adjustments, with the concurrence of the state board for community college education and the governor, within their 1973 Phase Two Budget Appropriation, for the acquisition, relocation, siting, refurbishing, and equipping of any surplus expo facilities on the Walla Walla community college campus for such purposes as housing the Phase Two vocational programs if such programs can thereby be more economically accommodated than with new facilities as originally authorized in the 1973 Appropriation Phase Two." [1975 1st ex.s. c 141 § 2.]

28B.50.020 Purpose.

Cooperation mandated between common school and community college districts: RCW 28C.04.070.

28B.50.050 State board for community college education—Created—Members—Appointment—Terms—Qualifications—Per diem and mileage—Removal.

Vocational education, board duties relating to: Chapter 28C.04 RCW.

28B.50.060 Director of the state system of community colleges—Appointment—Term—Qualifications—Salary and expenses—Duties.

Vocational education, director's duties relating to: Chapter 28C.04 RCW.

28B.50.092 College board—Program for military personnel—Restrictions as to high school completion program.

Adult high school completion programs, authority to conduct: RCW 28C.04.110.

28B.50.160 through 28B.50.200 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.50.211 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.50.220 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.50.221 through 28B.50.246 Recodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.50.535 Community college may issue high school diploma or certificate, limitation.

Adult high school completion programs, authority to conduct: RCW 28C.04.110.

28B.50.551 Leave provisions generally. The board of trustees of each community college district shall adopt for each community college under its jurisdiction written policies on granting leaves to employees of the district and those colleges, including but not limited to

leaves for attendance at official or private institutions and conferences, sabbatical leaves for academic personnel, leaves for illness, injury, bereavement and emergencies, with such compensation as the board of trustees may prescribe, except that the board shall grant to all such persons leave with full compensation for illness, injury, bereavement and emergencies as follows:

(1) For persons under contract to be employed, or otherwise employed, for at least three quarters, at least fifteen days, commencing with the first day on which work is to be performed;

(2) Such leave entitlement may be accumulated after the first three-quarter period of employment at a minimum rate of five days per quarter for full time employees up to a maximum of one hundred eighty days, and may be taken at any time;

(3) Leave for illness, injury, bereavement and emergencies heretofore accumulated pursuant to law, rule, regulation or policy by persons presently employed by community college districts and community colleges shall be added to such leave accumulated under this section;

(4) Except as otherwise provided in this section or other law, accumulated leave under this section not taken at the time such person retires or ceases to be employed by community college districts or community colleges shall not be compensable;

(5) Accumulated leave for illness, injury, bereavement and emergencies under this section shall be transferred from one community college district or community college to another, to the state board for community college education, to the state superintendent of public instruction, to any educational service district, to any school district, or to any other institutions of higher learning of the state; and

(6) Leave accumulated by a person in a community college district or community college prior to leaving that district or college may, under the policy of the board of trustees, be granted to such person when he returns to the employment of that district or college. [1975 1st ex.s. c 275 § 148; 1973 c 62 § 22; 1969 ex.s. c 283 § 7. Formerly RCW 28.85.551.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

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

28B.50.770 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.50.851 Faculty tenure—Definitions. As used in RCW 28B.50.850 through 28B.50.869:

(1) "Tenure" shall mean a faculty appointment for an indefinite period of time which may be revoked only for adequate cause and by due process;

(2) (a) "Faculty appointment", except as otherwise provided in subsection (2)(b) below, shall mean full time employment as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the

appointing authority, except administrative appointments; "faculty appointment" shall also mean department heads, division heads and administrators to the extent that such department heads, division heads or administrators have had or do have status as a teacher, counselor, or librarian;

(b) "Faculty appointment" shall not mean special faculty appointment as a teacher, counselor, librarian, or other position as enumerated in subsection (2)(a) of this section, when such employment results from special funds provided to a community college district from federal moneys or other special funds which other funds are designated as "special funds" by the state board for community college education: *Provided*, That such "special funds" so designated by the state board for purposes of this section shall apply only to teachers, counselors and librarians hired from grants and service agreements and teachers, counselors and librarians hired in nonformula positions. A special faculty appointment resulting from such special financing may be terminated upon a reduction or elimination of funding or a reduction or elimination of program: *Provided further*, That a "faculty appointee" holding a faculty appointment pursuant to subsections (1) or (2)(a) who has been subsequently transferred to a position financed from "special funds" pursuant to subsection (2)(b) and who thereafter loses his position upon reduction or elimination of such "special funding" shall be entitled to be returned to his previous status as a faculty appointee pursuant to subsection (1) or (2)(a) depending upon his status prior to the "special funding" transfer. Notwithstanding the fact that tenure shall not be granted to anyone holding a special faculty appointment, the termination of any such faculty appointment prior to the expiration of the term of such faculty member's individual contract for any cause which is not related to elimination or reduction of financing or the elimination or reduction of program shall be considered a termination for cause subject to the provisions of this chapter;

(3) "Probationary faculty appointment" shall mean a faculty appointment for a designated period of time which may be terminated without cause upon expiration of the probationer's terms of employment;

(4) "Probationer" shall mean an individual holding a probationary faculty appointment;

(5) "Administrative appointment" shall mean employment in a specific administrative position as determined by the appointing authority;

(6) "Appointing authority" shall mean the board of trustees of a community college district;

(7) "Review committee" shall mean a committee composed of the probationer's faculty peers, a student representative, and the administrative staff of the community college: *Provided*, That the majority of the committee shall consist of the probationer's faculty peers. [1975 1st ex.s. c 112 § 1; 1974 ex.s. c 33 § 1; 1970 ex.s. c 5 § 3; 1969 ex.s. c 283 § 33. Formerly RCW 28.85.851.]

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

Chapter 28B.52
NEGOTIATIONS BY ACADEMIC
PERSONNEL—COMMUNITY COLLEGE
DISTRICTS

Sections

- 28B.52.020 Definitions. (Effective January 1, 1976.)
 28B.52.060 Commission—Fact-finding and mediation activities. (Effective January 1, 1976.)
 28B.52.080 Commission to adopt rules and regulations—Boards may request commission services. (Effective January 1, 1976.)

28B.52.020 Definitions. (Effective January 1, 1976.)

As used in this chapter:

"Employee organization" means any organization which includes as members the academic employees of a community college district and which has as one of its purposes the representation of the employees in their employment relations with the community college district.

"Academic employee" means any teacher, counselor, librarian, or department head, who is employed by any community college district, with the exception of the chief administrative officer of, and any administrator in, each community college district.

"Administrator" means any person employed either full or part time by the community college district and who performs administrative functions as at least fifty percent or more of his assignments, and has responsibilities to hire, dismiss, or discipline other employees. Administrators shall not be members of the bargaining unit unless a majority of such administrators and a majority of the bargaining unit elect by secret ballot for such inclusion pursuant to rules and regulations as adopted in accordance with RCW 28B.52.080.

"Commission" means the public employment relations commission. [1975 1st ex.s. c 296 § 12; 1973 1st ex.s. c 205 § 1; 1971 ex.s. c 196 § 2.]

Effective date—1975 1st ex.s. c 296 § 12: See 1975 2nd ex.s. c 5 § 8, RCW 41.58.901.

Severability—1973 1st ex.s. c 205: "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 205 § 7.] This applies to RCW 28B.52.020, 28B.52.030, 28B.52.035, 28B.52.060, 28B.52.080 and 28B.52.200.

Public employment relations commission: Chapter 41.58 RCW.

28B.52.060 Commission—Fact-finding and mediation activities. (Effective January 1, 1976.) The commission is authorized to conduct fact-finding and mediation activities upon the consent of both parties as a means of assisting in the settlement of unresolved matters considered under this chapter.

In the event that any matter being jointly considered by the employee organization and the board of trustees of the community college district is not settled by the means provided in this chapter, either party, twenty-four hours after serving written notice of its intended action to the other party, may, request the assistance and advice of the commission. [1975 1st ex.s. c 296 § 13; 1973 1st ex.s. c 205 § 3; 1971 ex.s. c 196 § 5.]

Effective date—1975 1st ex.s. c 296 § 13: See 1975 2nd ex.s. c 5 § 8, RCW 41.58.901.

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

28B.52.080 Commission to adopt rules and regulations—Boards may request commission services. (Effective January 1, 1976.) The commission shall adopt reasonable rules and regulations for the administration of employer-employee relations under this chapter. The boards may request the services of the commission to assist in the conduction of certification elections as provided for in RCW 28B.52.030. [1975 1st ex.s. c 296 § 14; 1973 1st ex.s. c 205 § 5; 1971 ex.s. c 196 § 7.]

Effective date—1975 1st ex.s. c 296 § 14: See 1975 2nd ex.s. c 5 § 8, RCW 41.58.901.

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

Chapter 28B.57
1975 COMMUNITY COLLEGE SPECIAL CAPITAL
PROJECTS BOND ACT

Sections

- 28B.57.010 State general obligation bonds in lieu of general tuition fee, limited obligation bonds—"Community college capital projects" defined.
 28B.57.020 Amount of bonds authorized.
 28B.57.030 Projects enumerated.
 28B.57.040 Bond anticipation notes, authorized, payment—Form, terms, conditions, sale and covenants of bonds and notes.
 28B.57.050 Disposition of proceeds—1975 community college capital construction account, created, use.
 28B.57.060 Administration of proceeds from bonds and notes.
 28B.57.070 1975 community college capital construction bond retirement fund—Created—Purpose.
 28B.57.080 Moneys to be transferred from community college account to state general fund—Limitation.
 28B.57.090 Bonds as legal investment for public funds.
 28B.57.100 Prerequisite to bond issuance.

28B.57.010 State general obligation bonds in lieu of general tuition fee, limited obligation bonds—"Community college capital projects" defined. The legislature has previously approved by its appropriation of funds from time to time, certain capital projects for the state community colleges, which appropriations were to be funded primarily by the issuance of general tuition fee, limited obligation bonds by the state board for community college education (hereinafter in this chapter called the "college board"). In order that any future appropriations for such approved capital projects may be funded on terms most advantageous to the state, it is hereby determined to be in the public interest to provide for the issuance of state general obligation bonds, in lieu of general tuition fee, limited obligation bonds.

For purposes of this chapter, "community college capital projects" means the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community college education in the name of the state of Washington, and the acquisition of sites, rights of way, easements, improvements or appurtenances in relation thereto. [1975 1st ex.s. c 65 § 1.]

Appropriation—1975 1st ex.s. c 65: "There is hereby appropriated to the state board for community college education for the biennium

ending June 30, 1977, from the community college capital construction account of the state general fund, the amount of nine million dollars or so much thereof as may be necessary to carry out the purposes of sections 1 through 10 of this act." [1975 1st ex.s. c 65 § 12.]

Severability—1975 1st ex.s. c 65: "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, shall in no way be affected." [1975 1st ex.s. c 65 § 13.]

The above annotations apply to RCW 28B.57.010, 28B.57.020, 28B.57.030, 28B.57.040, 28B.57.050, 28B.57.060, 28B.57.070, 28B.57.080, 28B.57.090 and 28B.57.100.

28B.57.020 Amount of bonds authorized. For the purpose of providing funds for carrying out the community college capital projects described in RCW 28B.57.030, and to fund indebtedness and expenditures heretofore incurred for such projects, the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of nine million dollars, or so much thereof as may be required for such purposes, to be paid and discharged within thirty years of the date or dates of issuance, in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975 1st ex.s. c 65 § 2.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

28B.57.030 Projects enumerated. The community college capital projects referred to in RCW 28B.57.020 are (1) at Walla Walla Community College, for construction of vocational facilities, Phase II, at a cost of not more than two million two thousand three hundred ninety-nine dollars and (2) at Seattle Central Community College, for remodeling of Edison South High School, at a cost of not more than six million nine hundred ninety-seven thousand six hundred and one dollars, which projects were to be primarily funded, but have not heretofore been sufficiently funded, from the proceeds of general tuition fee, limited obligation bonds issued by the college board. [1975 1st ex.s. c 65 § 3.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

28B.57.040 Bond anticipation notes, authorized, payment—Form, terms, conditions, sale and covenants of bonds and notes. When the state finance committee has determined to issue such general obligation bonds or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of

Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due. [1975 1st ex.s. c 65 § 4.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

28B.57.050 Disposition of proceeds—1975 community college capital construction account, created, use. The proceeds from the sale of the bonds and/or bond anticipation notes authorized herein, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account, hereby created in the state general fund. [1975 1st ex.s. c 65 § 5.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

28B.57.060 Administration of proceeds from bonds and notes. All proceeds of the bonds authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975 1st ex.s. c 65 § 6.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

28B.57.070 1975 community college capital construction bond retirement fund—Created—Purpose. The 1975 community college capital construction bond retirement fund is hereby created in the state treasury for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30 of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund an amount equal to the amount certified by the state finance committee. [1975 1st ex.s. c 65 § 7.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

28B.57.080 Moneys to be transferred from community college account to state general fund—Limitation. On or before June 30 of each year, the college board shall accumulate in the community college capital projects account from general tuition fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. On July 1st of each such year, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund: *Provided*, That withdrawal of general tuition fees from

the community college capital projects account for deposit into the state general fund pursuant to the provisions of this section shall be made only after provision has first been made for the payment in full of the principal of and interest on all outstanding general tuition fee, limited obligation bonds of the college board coming due in the twelve months next succeeding July 1 of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period. [1975 1st ex.s. c 65 § 8.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

28B.57.090 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 65 § 9.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

28B.57.100 Prerequisite to bond issuance. The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its projected general tuition fee revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.57.080, during the life of the bonds proposed to be issued. [1975 1st ex.s. c 65 § 10.]

Appropriation—Severability—1975 1st ex.s. c 65: See notes following RCW 28B.57.010.

Chapter 28B.58

1975 COMMUNITY COLLEGE GENERAL CAPITAL PROJECTS BOND ACT

Sections

- 28B.58.010 State general obligation bonds in lieu of general tuition fee, limited obligation bonds—"Community college capital projects" defined—Consideration for minority contractors on projects so funded.
- 28B.58.020 Amount of bonds authorized.
- 28B.58.030 Bond anticipation notes, authorized, payment—Form, term, conditions, sale and covenants of bonds and notes.
- 28B.58.040 Disposition of proceeds from sale of bonds and notes.
- 28B.58.050 Administration of proceeds from bonds and notes.
- 28B.58.060 Payment of principal and interest on bonds.
- 28B.58.070 Moneys to be transferred from community college account to state general fund—Limitation.
- 28B.58.080 Bonds as legal investment for public funds.
- 28B.58.090 Prerequisite to bond issuance.

28B.58.010 State general obligation bonds in lieu of general tuition fee, limited obligation bonds—"Community college capital projects" defined—Consideration for minority contractors on projects so funded. The legislature has approved by its appropriation of funds from time to time, capital projects for the state community colleges, which appropriations have been funded primarily by the issuance of general tuition fee, limited obligation bonds by the state board for community college education (hereinafter in this chapter called the "college board"). In order that any future appropriations for such approved capital projects may be funded

on terms most advantageous to the state, it is hereby determined to be in the public interest to provide for the issuance of state general obligation bonds, in lieu of general tuition fee, limited obligation bonds.

For purposes of this chapter, "community college capital projects" means the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets owned by the state board for community college education in the name of the state of Washington, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto. It is the intent of the legislature that in any decision to contract for capital projects funded as the result of this chapter, full and fair consideration shall be given to minority contractors. [1975 1st ex.s. c 236 § 1.]

Severability—1975 1st ex.s. c 236: "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, shall in no way be affected." [1975 1st ex.s. c 236 § 11.] This applies to RCW 28B.58.010, 28B.58.020, 28B.58.030, 28B.58.040, 28B.58.050, 28B.58.060, 28B.58.070, 28B.58.080 and 28B.58.090.

28B.58.020 Amount of bonds authorized. For the purpose of financing the community college capital projects as determined by the legislature in its capital appropriations act, chapter 276, Laws of 1975 1st ex. sess., the state finance committee is hereby authorized to issue from time to time general obligation bonds of the state of Washington in the aggregate principal amount of fourteen million seven hundred seventy-six thousand dollars, or so much thereof as may be required for such purposes, to be paid and discharged within thirty years of the date or dates of issuance, in accordance with Article VIII, section 1 of the Constitution of the state of Washington. [1975 1st ex.s. c 236 § 2.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.030 Bond anticipation notes, authorized, payment—Form, term, conditions, sale and covenants of bonds and notes. When the state finance committee has determined to issue such general obligation bonds, or a portion thereof, it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of such bonds, which notes shall be designated as "bond anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for the payment of principal and redemption premium, if any, of and interest on such notes shall be applied thereto when such bonds are issued.

The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds and/or the bond anticipation notes, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance.

Each such bond and bond anticipation note shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal thereof and the interest thereon when due. [1975 1st ex.s. c 236 § 3.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.040 Disposition of proceeds from sale of bonds and notes. Except for that portion of the proceeds required to pay bond anticipation notes pursuant to RCW 28B.58.030, the proceeds from the sale of the bonds and/or bond anticipation notes authorized in this chapter, together with all grants, donations, transferred funds, and all other moneys which the state finance committee or the college board may direct the state treasurer to deposit therein, shall be deposited in the 1975 community college capital construction account in the state general fund. [1975 1st ex.s. c 236 § 4.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

1975 community college capital construction account, created, use: RCW 28B.57.050.

28B.58.050 Administration of proceeds from bonds and notes. Subject to legislative appropriation, all proceeds of the bonds authorized in this chapter shall be administered by the college board exclusively for the purposes specified in this chapter and for the payment of the expenses incurred in connection with the sale and issuance of such bonds and bond anticipation notes. [1975 1st ex.s. c 236 § 5.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.060 Payment of principal and interest on bonds. The 1975 community college capital construction bond retirement fund in the state treasury shall be used for the purpose of the payment of principal of and interest on the bonds authorized to be issued pursuant to this chapter.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amount required in the next succeeding twelve months for the payment of the principal of and interest coming due on such bonds. On July 1st of each such year the state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the 1975 community college capital construction bond retirement fund, an amount equal to the amount certified by the state finance committee. [1975 1st ex.s. c 236 § 6.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

1975 community college capital construction bond retirement fund—Created—Purpose: RCW 28B.57.070.

28B.58.070 Moneys to be transferred from community college account to state general fund—Limitation. On or before June 30th of each year, the college board shall accumulate in the community college capital projects account from general tuition fees and other moneys deposited therein, an amount at least equal to the amount required in the next succeeding twelve months for the payment of principal of and interest on the bonds issued pursuant to this chapter. On July 1st of

each such year, the state treasurer shall withdraw said sum from the community college capital projects account and deposit said sum in the state general fund: *Provided*, That withdrawal of general tuition fees from the community college capital projects account for deposit into the general fund pursuant to the provisions of this section shall be made only after provision has first been made for the payment in full of the principal of and interest on all outstanding general tuition fee, limited obligation bonds of the college board coming due in the twelve months next succeeding July 1st of each such year, and for any reserve account deposits necessary for such outstanding bonds in the same period. [1975 1st ex.s. c 236 § 7.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.080 Bonds as legal investment for public funds. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1975 1st ex.s. c 236 § 8.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

28B.58.090 Prerequisite to bond issuance. The bonds authorized in this chapter shall be issued only after the college board has certified to the state finance committee that its projected general tuition fee revenue shall be adequate, based upon reasonable projections of student enrollments, for the college board to meet the requirements of RCW 28B.58.070, during the life of the bonds proposed to be issued. [1975 1st ex.s. c 236 § 9.]

Severability—1975 1st ex.s. c 236: See note following RCW 28B.58.010.

Chapter 28B.80

COUNCIL FOR POSTSECONDARY EDUCATION IN THE STATE OF WASHINGTON (FORMERLY: COUNCIL ON HIGHER EDUCATION IN THE STATE OF WASHINGTON)

Sections

- 28B.80.010 Council created.
- 28B.80.020 Purpose.
- 28B.80.030 Functions generally.
- 28B.80.040 Members—Selection—Special duties of certain public officials as members.
- 28B.80.060 Members—Terms.
- 28B.80.080 Chairman—Bylaws—Executive coordinator of services—Deputy coordinators and other employees and consultants—Expenditure of council funds, limitation.
- 28B.80.100 Reports.
- 28B.80.200 Council as state commission for federal law purposes.
- 28B.80.210 Council to administer enumerated federal programs.
- 28B.80.220 Additional powers and duties of council.
- 28B.80.230 Federal funds, private gifts or grants, council to administer.
- 28B.80.240 Student financial aid programs, council to administer.
- 28B.80.900 Chapter not to affect other administrative official or agency powers and duties.

Vocational education, council comments respecting state plan: RCW 28C.04.040.

28B.80.010 Council created. There is hereby created the council for postsecondary education in the state of Washington. [1975 1st ex.s. c 132 § 1; 1969 ex.s. c 277 § 1. Formerly RCW 28.89.010.]

Effective date—1975 1st ex.s. c 132: "This 1975 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 July 1, 1975." [1975 1st ex.s. c 132 § 19.]

Severability—1975 1st ex.s. c 132: "If any provision of this 1975 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." [1975 1st ex.s. c 132 § 18.]

The above annotations apply to RCW 28B.10.802, 28B.10.840, 28B.80.010, 28B.80.020, 28B.80.030, 28B.80.040, 28B.80.060, 28B.80.080, 28B.80.100, 28B.80.200, 28B.80.210, 28B.80.220, 28B.80.230, 28B.80.240, 28B.80.900, and the repeal of RCW 28B.81.010, 28B.81.020, 28B.81.030, 28B.81.040, 28B.81.050, 28B.81.060, 28B.80.070, 28B.81.080, 28B.81.090 and 28B.81.900.

28B.80.020 Purpose. The purpose of the council is as follows: The four year educational institutions, under the autonomous governance of their governing boards, and operating within guidelines set by statute for particular institutions of higher education, have responded to the many kinds of educational needs of the people of a dynamic and growing state. They have evolved a wide array of educational services of benefit to students enrolled in degree and certificate courses, to adults returning to educational institutions for various kinds of continuing education needed to update skills and understandings in a changing world, and to government agencies, business, labor professions, and associations. The state has been well served by the delegation to the institutions of a large measure of autonomy which has enabled them to cooperate in achieving educational and operating effectiveness. Opportunity for such institutional initiative and institutional voluntary cooperation should be preserved and encouraged to the largest possible extent.

With the increase in the number of postsecondary institutions and in the scope, variety, and extent of education demanded of the institutions by the people of a dynamic state and the evident need to maintain articulation and coordination among the parts of a more complex system of postsecondary education, it is desirable to establish a council to facilitate planning for postsecondary education.

To assure maximum effectiveness of the agency, its deliberations should be participated in by representatives of the governor, the public, and the institutions, agencies, and systems of public and private postsecondary education. [1975 1st ex.s. c 132 § 2; 1969 ex.s. c 277 § 2. Formerly RCW 28.89.020.]

Effective date—**Severability**—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.80.030 Functions generally. The council may perform any of the following functions:

(1) Engage in overall planning for postsecondary education in the state, which shall include the collection and analysis of necessary data from public, and where

appropriate private institutions of postsecondary education. The purpose shall be to:

(a) Assess and define the educational needs of the state to be served by postsecondary education;

(b) Recommend and coordinate studies to ascertain how defined educational needs are being met;

(c) Study and make recommendations concerning adult education, continuing education, public service and postsecondary educational programs;

(d) Identify priorities among the defined needs and specify the resources necessary to meet them;

(e) Differentiate roles of the community college system and the individual public institutions and identify the most effective division of responsibility among them in meeting defined needs. To facilitate this, review and recommend the creation of all new degrees and recommend which institutions shall award them; and evaluate proposals for the elimination of existing degrees. Identify changing conditions which may require the revision of these roles and division of responsibility of the institutions.

(2) In the execution of the above planning responsibilities, develop criteria for the need for new baccalaureate institutions; and recommend the establishment, location and role of any new public baccalaureate granting institutions, and review the plans for the community college system in terms of their articulation with planning for postsecondary education in the state.

(3) Study levels of fees and charges to students and, when necessary, make recommendations to the institutions, legislature, and governor.

(4) Study and make recommendations concerning admission and transfer policies.

(5) Review individual institutional operating budget requests to determine the conformity or lack thereof to the state's postsecondary education plan: *Provided*, That its review of community colleges be limited to the plan prepared by the state board for community college education.

(6) Review the individual institutional capital budget requests to determine their conformity or lack thereof to the state's postsecondary education plan: *Provided*, That its review of community colleges be limited to the plan prepared by the state board for community college education.

(7) Study and make recommendations for the development of improved practices of administrative management in order to facilitate the most efficient operation of the public institutions and the avoidance of unnecessary duplication among the institutions.

(8) At the request of the governor, legislature, state board for community college education, or baccalaureate granting institutions of higher education, and in conjunction with such legislative standing committees on higher education as may be in existence, study and make recommendations regarding legislation affecting postsecondary education. [1975 1st ex.s. c 132 § 3; 1969 ex.s. c 277 § 3. Formerly RCW 28.89.030.]

Effective date—**Severability**—1975 1st ex.s. c 132: See notes following RCW 28B.80.030.

28B.80.040 Members—Selection—Special duties of certain public officials as members. The council shall consist of members who are truly representative of the public, including the minority community, and shall be selected as follows:

Nine citizen members to be appointed by the governor and confirmed by the senate as representatives of the public at large, one of whom shall be a full time undergraduate student at the time of his or her appointment at a postsecondary educational institution; the superintendent of public instruction; one member of the executive branch of government appointed by the governor; one president of the public universities and four-year colleges of the state who is the chairman of the council of presidents; the executive director of the state board for community college education; the executive director of the commission for vocational education; one president of the state's private universities or four-year colleges and one representative of postsecondary proprietary education, each appointed by the governor.

It shall be the duty of the director of the state board for community college education to represent not only the state board for community college education, but also all the community colleges in the state and their respective governing boards and he is further directed and charged to act as a liaison between the council and the state board for community college education and boards of trustees of the community college districts in the state.

It shall be the duty of the superintendent of public instruction to represent the common school system presenting such information to the council as may be of assistance in the development of overall educational plans and articulation between the common school and postsecondary systems of education.

It shall be the duty of the executive director of the commission for vocational education to represent vocational and technical education, presenting to the council such information regarding the state plan for vocational education and other data as may be of assistance in the development of overall educational plans. [1975 1st ex.s. c 132 § 4; 1969 ex.s. c 277 § 4. Formerly RCW 28.89.040.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

Initial appointment, time—Initial organization meeting, when: "Initial appointment and selection of the council shall be made prior to June 30, 1969 and the names and addresses of those members appointed other than by the governor shall be immediately transmitted to his office. On July 15, 1969 the council shall meet to organize at a place and time set by the governor who shall give reasonable notice thereof to council members." [1969 ex.s. c 277 § 8.]

28B.80.060 Members—Terms. Citizen members of the council shall serve for terms of six years, said terms expiring on June 30th of the sixth year of their term: *Provided*, That the term of the student citizen member shall not exceed three years and shall be coextensive with his or her tenure as a student except for summer sessions.

The member of the council appointed by the governor from the executive branch of government shall serve at the governor's pleasure.

The term of the superintendent of public instruction, the executive director of the commission for vocational education, and the executive director of the state board for community college education shall be coextensive with their tenure in those respective offices.

The president—representatives appointed by the governor shall serve for a four year term, or until such earlier date as each shall cease to be the president of the institution or representative of a postsecondary group from which he was appointed. [1975 1st ex.s. c 132 § 5; 1969 ex.s. c 277 § 6. Formerly RCW 28.89.060.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.80.080 Chairman—Bylaws—Executive coordinator of services—Deputy coordinators and other employees and consultants—Expenditure of council funds, limitation. By a majority vote of the citizen members, the council shall select a chairman who shall be a citizen member; and, the council shall adopt such bylaws as it sees fit.

The council shall appoint an executive coordinator of services who shall serve at the pleasure of the council. The executive coordinator of services shall be the executive officer of the council and, under the council's supervision, shall administer the provisions of this chapter. In addition, he shall be in charge of the office of the council.

The council may employ and appoint such other assistants and employees as may be required. In addition, the council may appoint deputy coordinators who shall be assistant directors for the purpose of chapter 41.06 RCW, the state civil service act, and any individual filling such a position shall serve at the pleasure of the council.

In fulfilling the duties under this chapter, the council shall make extensive use of those state agencies with responsibility for implementing and supporting postsecondary education plans and policies, e.g., appropriate legislative groups, the postsecondary education institutions, the office of program planning and fiscal management, and the state board for community college education. Outside consulting and service agencies may also be employed. The council may compensate these groups and consultants in appropriate ways.

All council funds shall be expended subject to the approval of the chairman. All matter related to payment of compensation and other expenses of the council shall be subject to the state budget and accounting act. [1975 1st ex.s. c 132 § 6; 1969 ex.s. c 277 § 9. Formerly RCW 28.89.080.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

Budget and accounting system: Chapter 43.88 RCW.

Joint committee on higher education: Chapter 44.30 RCW.

State board for community college education: Chapter 28B.50 RCW.

28B.80.100 Reports. The council shall from time to time make reports both to the governor and the legislature. [1975 1st ex.s. c 132 § 8; 1969 ex.s. c 277 § 11. Formerly RCW 28.89.100.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.80.200 Council as state commission for federal law purposes. The council is designated as the state commission as provided for in Section 1202 of the education amendments of 1972 (Public Law 92-318), as now or hereafter amended; and shall perform such functions as is necessary to comply with federal directives pertaining to the provisions of such law: *Provided*, That notwithstanding the provisions of RCW 28B.80-.050, all members of the council shall have full voting powers in taking actions related to federal postsecondary educational planning functions as provided for in this section and RCW 28B.80.210 through 28B.80.240. [1975 1st ex.s. c 132 § 9.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.80.210 Council to administer enumerated federal programs. The council shall administer the following programs: Title IV-B and VI of the Higher Education Act of 1965; Title I of the Higher Education Facilities Act of 1963; and any other federal act pertaining to higher education which is not administered by another state agency. [1975 1st ex.s. c 132 § 12. Prior: 1969 ex.s. c 263 § 3. Formerly RCW 28.90.120, 28B.81.030.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.80.220 Additional powers and duties of council. The council shall:

(1) Prepare plans and participation as required by Title VI of the Higher Education Act of 1965 and Title I of the Higher Education Facilities Act of 1963. The plan so prepared shall set forth objective standards and methods, consistent with basic criteria prescribed by the United States commissioner of education; for determining the relevant priorities; and the federal share of the development cost of eligible projects for construction of academic facilities and for the purchase of undergraduate instruction equipment submitted by institutions of higher education in this state.

(2) Conduct surveys and studies as may be necessary for the determination of the state participation in Title I of the Higher Education Facilities Act and Title VI of the Higher Education Act of 1965 and to this end may cooperate with other agencies.

(3) Provide for affording to every applicant who has submitted a project to the council an opportunity for a fair hearing before the council as to the priority assigned to such project or as to any other determination of the council adversely affecting such applicant.

(4) Provide for such fiscal control and fund accounting as may be necessary to assure proper disbursement

of an accounting for federal funds paid to the council and for the making of such reports in such form and containing such information as may be necessary to enable the commissioner of education to perform his function. [1975 1st ex.s. c 132 § 13. Prior: 1969 ex.s. c 263 § 4. Formerly RCW 28.90.130, 28B.81.040.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.80.230 Federal funds, private gifts or grants, council to administer. The council is authorized to receive and expend federal funds and any private gifts or grants, such federal funds or private funds to be expended in accordance with the conditions contingent in such grant thereof. [1975 1st ex.s. c 132 § 14. Prior: 1969 ex.s. c 263 § 5. Formerly RCW 28.90.140, 28B.81.050.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.80.240 Student financial aid programs, council to administer. The council shall administer any state program or state-administered federal program of student financial aid now or hereafter established. [1975 1st ex.s. c 132 § 15. Prior: 1969 ex.s. c 263 § 7. Formerly RCW 28.90.160, 28B.81.070.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

28B.80.900 Chapter not to affect other administrative official or agency powers and duties. Nothing in this chapter shall be deemed to derogate or detract from the powers and duties conferred by law upon the separate governing boards of the state's institutions of higher learning, the state board for community college education, the superintendent of public instruction, or the powers and duties of any other administrative agency. [1975 1st ex.s. c 132 § 10; 1969 ex.s. c 277 § 14. Formerly RCW 28.89.900.]

Effective date—Severability—1975 1st ex.s. c 132: See notes following RCW 28B.80.010.

State board for community college education: Chapter 28B.50 RCW.

Chapter 28B.81 COMMISSION ON HIGHER EDUCATION

Sections

28B.81.010 through 28B.81.090 Repealed.

28B.81.150 Decodified.

28B.81.900 Repealed.

28B.81.010 through 28B.81.090 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.81.150 Decodified. See Supplementary Table of Disposition of Former RCW Sections, this volume.

28B.81.900 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

Title 28C VOCATIONAL EDUCATION

Chapters

28C.04 1975 Vocational education act.

Chapter 28C.04 1975 VOCATIONAL EDUCATION ACT

Sections

- 28C.04.010 Purpose.
- 28C.04.020 Definitions.
- 28C.04.025 Uniform definition of terms used in vocational education title—Purpose.
- 28C.04.026 Uniform definition of terms used in vocational education title—Definitions.
- 28C.04.030 Commission—Established—Members, appointment, terms, qualifications—Chairman—Quorum.
- 28C.04.040 Commission—Functions.
- 28C.04.050 Commission—Reports and recommendations, scope.
- 28C.04.060 Commission—Rules and regulations, scope, review—Bylaws—Delegation of functions—Cooperation with superintendent of public instruction.
- 28C.04.070 Commission—Members, per diem and travel expenses.
- 28C.04.080 Commission—Executive director and staff of.
- 28C.04.090 Commission—Preparation of state plan for vocational education by, considerations—Allocation of funds, standard.
- 28C.04.140 Fire service training.
- 28C.04.150 Cooperation mandated between common school and community college districts—New programs, procedure—Adjudication when dispute.
- 28C.04.160 Adult high school completion programs, authority to conduct.
- 28C.04.200 Acceptance of federal acts.
- 28C.04.210 Custodian of special appropriations.
- 28C.04.220 Types of schools or classes.
- 28C.04.230 School district vocational education programs—Scope—Rules and regulations.
- 28C.04.240 Children of certain citizens missing in action or prisoners of war exempt from fees—Limitations—Procedure.
- 28C.04.300 State advisory council on vocational education—Created—Members—Qualifications—Appointment—Terms—Chairman—Meetings—Per diem and expenses.
- 28C.04.310 State advisory council on vocational education—Powers and duties.
- 28C.04.500 Coordinating council—Abolished—Transfer of responsibilities, personnel, property and equipment.
- 28C.04.510 Coordinating council—Abolished—Transfer of functions (including personnel, funds and equipment).

28C.04.010 Purpose. The purpose of this chapter is to provide for a comprehensive planning process and a decision making system for vocational education programs in the state of Washington and to establish administrative responsibility for the receipt and allocation of federal vocational funds.

It is the intent of this chapter that whenever possible, comprehensive and coordinated educational programs shall be provided at the secondary and postsecondary

education levels and such programs shall include therein vocational, occupational, and technical offerings, both within the secondary and postsecondary education systems. [1975 1st ex.s. c 174 § 1.]

Effective date—1975 1st ex.s. c 174: "This 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 July 1, 1975." [1975 1st ex.s. c 174 § 19.]

Severability—1975 1st ex.s. c 174: "If any provision of this 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." [1975 1st ex.s. c 174 § 20.]

The above annotations apply to RCW 28C.04.010, 28C.40.020, 28C.04.026, 28C.04.030, 28C.04.040, 28C.04.050, 28C.04.060, 28C.04.070, 28C.04.080, 28C.04.090, 28C.04.150, 28C.04.160, 28C.04.230, 28C.04.310, 28C.04.500 and 28C.04.510, to the recodification of sections as RCW 28C.04.025, 28C.04.140, 28C.04.200, 28C.04.210, 28C.04.220, 28C.04.240, and 28C.04.300, and the repeal of RCW 28B.50.160, 28B.50.170, 28B.50.180, 28B.50.200, 28B.50.220 and 28B.50.770.

Reviser's note: In this and other sections of 1975 1st ex.s. c 174 both the phrase "this chapter" and "this amendatory act" were used indiscriminately; for the purposes of codification the phrase "this chapter" has been used throughout. For disposition of sections affected by 1975 1st ex.s. c 174 see annotations to 1975 act above.

28C.04.020 Definitions. As used in this chapter the following definitions shall apply:

(1) "Commission" shall mean the commission for vocational education.

(2) "Secondary education system" shall mean those educational courses and programs, within the jurisdiction of the superintendent of public instruction, being offered in the common schools of the state of Washington in the grades 7 through 12, or any part thereof, which are traditionally provided for the purpose of granting a recognized certificate of completion or a high school diploma: *Provided*, That notwithstanding the provisions of this chapter and RCW 28B.50.140(1), existing vocational-technical institutes operating within the secondary school system shall continue to function within the common school system.

(3) "Postsecondary education system" shall mean those educational courses and programs, not within the jurisdiction of the superintendent of public instruction, being offered beyond secondary education by institutions of higher education in the state of Washington to those who hold a certificate of completion or high school diploma which includes academic, vocational, technical or professional training traditionally leading to an associate, baccalaureate or higher degree or a certificate of achievement.

(4) "Vocational education" shall mean a planned series of learning experiences, the specific objective of which is to prepare persons to enter, continue in, or upgrade themselves in gainful employment in recognized occupations, homemaking, home and family life programs, and volunteer fire fighting training, which are not designated as professional or requiring a baccalaureate or higher degree.

(5) "State plan" shall mean the Washington state plan for vocational education, adopted as required by

Public Law 88-210 as amended, and other federal congressional and administrative directives pertaining to vocational education, and shall be the single comprehensive plan which provides approval standards for vocational education operated in or by community colleges, common schools, area nongraded vocational-technical institutes, occupational skill centers, state institutions, private proprietary and parochial schools, on-the-job training facilities or any other training location where local, state or federal vocational funds are allocated: *Provided*, That standards of, rules and regulations for, and supervision of indentured apprenticeship in the apprenticeable crafts shall continue to be governed by the director of labor and industries and the state apprenticeship council in accordance with chapter 49.04 RCW.

(6) "Vocational-technical institute" shall mean a specialized area nongraded vocational education facility established and operated for the purpose of offering comprehensive courses primarily oriented to the job market area in vocational education for persons sixteen years of age and older without regard to residence, pursuant to laws and rules and regulations pertaining to the maintenance, operation, and capital funding of vocational-technical institutes: *Provided*, That service areas for common school vocational-technical institutes shall be defined specifically by the commission, recognizing areas traditionally served.

(7) "Advisory council" means the advisory council for vocational education established within this state pursuant to 20 USCA 1244B. [1975 1st ex.s. c 174 § 2.]

Reviser's note: See note following RCW 28C.04.010.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.025 Uniform definition of terms used in vocational education title—Purpose. It is the purpose of RCW 28C.04.026 to provide for uniform definitions of certain terms commonly used in vocational education in order to facilitate ongoing studies and add clarity to the future development of reporting and accounting procedures in this area of education. It will also improve coordination of services of vocational education being delivered by different agencies. [1971 ex.s. c 285 § 3. Formerly RCW 28A.09.110.]

28C.04.026 Uniform definition of terms used in vocational education title—Definitions. For the purposes of this title:

(1) The term "occupational exploration" shall include prevocational education. The term "occupational exploration" shall mean a series of educational experiences designed to (a) assist individuals in developing their understanding of, appreciation for, aptitudes for, and abilities in recognized occupations; (b) develop an attitude of respect toward work and pride in workmanship; and (c) provide knowledge and experience to assist in the choice of an occupational program.

(2) The terms "industrial arts" and "practical arts" shall mean general education centered around the industrial and technical aspects of current living, offering

orientation in and appreciation for production, consumption, and recreation through actual experiences with materials and goods and also providing exploratory experiences which are helpful in the choice of a vocation.

(3) The term "job market area" shall mean the geographic area for recruitment and placement of job entrants, usually determined by each industry or by a collective bargaining agreement. [1975 1st ex.s. c 174 § 13; 1971 ex.s. c 285 § 4. Formerly 28A.09.120.]

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.030 Commission—Established—Members, appointment, terms, qualifications—Chairman—Quorum. There is hereby established a commission for vocational education comprised of seven members, each of which shall be a voting member. The chairman shall be a citizen member chosen by a majority of its members pursuant to its bylaws. Five citizen members shall be appointed by the governor and confirmed by the state senate. The superintendent of public instruction and the director of the state board for community college education shall serve as the remaining two members. In making citizen member appointments initially, and subsequently thereafter, the governor shall be cognizant of the desirability of appointing persons well versed regarding vocational and occupational needs of management, labor, and agriculture.

The initial citizen appointments shall be for periods of one, two, three, four, and five years. Thereafter such citizen members shall serve for terms of five years. No citizen member shall be eligible to serve who is also a member of a state or local educational agency, board, council or commission, or who is employed by a common school or institution of higher education.

Four members shall constitute a quorum, and no action shall be taken by less than four affirmative votes. [1975 1st ex.s. c 174 § 3.]

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.040 Commission—Functions. The commission for vocational education shall have the following functions:

(1) Plan development. The commission shall be responsible for complying with federal directives to insure the development and maintenance of a state plan for vocational education but initial planning shall be accomplished by the secondary and postsecondary education systems. Prior to the adoption of the state plan, the commission shall request comments from the council on higher education and the advisory council for vocational education.

(2) State plan modification adjudication. Decisions on new programs and/or facilities for vocational education shall be made internally within the respective secondary or postsecondary education system in accordance with the provisions of the state plan. The

commission may review such decisions to insure compliance with the state plan and avoid unnecessary duplication of current or projected programs.

Any common school or community college district, or the superintendent of public instruction, or the state board for community college education, or other interested parties as authorized by the commission, shall be afforded the opportunity to comment upon any new programs or facilities proposed. The commission, subject to dispute resolution rules adopted by said commission, shall have the final determination on any disputes arising out of such program proposals.

In adjudicating disputes between the two secondary and postsecondary education systems regarding the state plan, the commission will use at least the following criteria: Recognition that secondary education is constitutionally the responsibility of the superintendent of public instruction and that by legislative action postsecondary education is the responsibility of institutions of higher education; adhere to the general policy set forth in the state plan; consider the particular vocational need of the community, region, or state and whether the common school or community college, or both, can best respond to those needs; encourage cooperation and coordination rather than competition and program conflict between secondary and postsecondary education systems; consider the desires and preferences of the residents of the immediate program service area and of the representatives of the fields of management, labor, and agriculture which benefit from possible program offerings; and avoid unnecessary duplication of vocational education programs and facilities.

(3) Vocational education administration. The commission shall be the sole agency for the receipt and allocation of federal funds in accordance with the state plan. The supervision of the state plan shall be carried out by the commission; however, daily administration of the state plan shall be primarily the responsibility of the superintendent of public instruction and the state board for community college education: *Provided*, That the commission shall review and approve state plan development proposals or special programs requiring personal service contracts, and activities beyond the program responsibilities of the superintendent of public instruction and the state board for community college education.

Under the state plan the commission shall make periodic compliance audits at least once a biennium of the vocational education programs individually and jointly conducted by the common schools and community colleges to insure compliance with the state plan.

The commission shall be the primary state liaison with the federal government for the state plan for vocational education. [1975 1st ex.s. c 174 § 4.]

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

Commission—Preparation of state plan for vocational education by, considerations—Allocation of funds, standard: RCW 28C.04.090.

28C.04.050 Commission—Reports and recommendations, scope. In addition to powers and duties under RCW 28C.04.040, the commission shall make periodic reports to the governor and the legislature. The initial report shall be submitted, with the governor's comments, to the 1977 legislature by December 1, 1976 and shall include, but not be limited to, review of and recommendations on the following: (1) Vocational education program modification, including common informational data systems; (2) reorganization of the administration of vocational education; (3) an appropriate level of expenditure for the state administration of vocational education programs; (4) appropriate charges for vocational and adult education programs in the secondary and postsecondary education systems; and (5) provisions for personnel standards for vocational education instructors.

Such recommendations, to the greatest extent possible, shall comply with the intent of this chapter and be consistent with federal requirements. [1975 1st ex.s. c 174 § 5.]

Reviser's note: See note following RCW 28C.04.010.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.060 Commission—Rules and regulations, scope, review—Bylaws—Delegation of functions—Cooperation with superintendent of public instruction. The commission is authorized to promulgate such rules and regulations as are necessary to comply with the intent of this chapter in accordance with chapter 34.04 RCW, the administrative procedure act, and adopt such bylaws as deemed necessary to the business of the commission. Existing rules and regulations of any state agency relating to vocational education should be considered amended in accordance with the intent of this chapter. Initial rules and regulations of the commission, prior to their effective date, shall be submitted to the respective rules committees of the senate and house for review concurrently at such time as notice of intent to adopt is filed. The commission is further authorized to take whatever action is necessary to insure compliance with federal vocational education enactments and state legislative and administrative directives concerning vocational education. The commission is also authorized to delegate by commission resolution to the executive director those functions it deems necessary to the operation of the commission.

The commission shall meet, consult and cooperate with the office of the state superintendent of public instruction on all matters falling within his constitutional supervisory powers in advance of exercising any of the powers or duties granted to the commission by this chapter. [1975 1st ex.s. c 174 § 6.]

Reviser's note: See note following RCW 28C.04.010.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.070 Commission—Members, per diem and travel expenses. Members of the commission will receive per diem in lieu of compensation, and travel expenses in accordance with standard rates for part time

boards, councils, and commissions as certified by the state budget director. [1975 1st ex.s. c 174 § 8.]

Reviser's note: Central budget agency abolished, powers and duties transferred to office of program planning and fiscal management, RCW 43.41.940, 43.41.050.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.080 Commission—Executive director and staff of. The commission may employ an executive director and such other personnel as may be necessary to carry out the purposes of this chapter. The commission in accordance with RCW 28C.04.040 shall keep its professional staff to the minimum number of persons necessary to fulfill its duties under this chapter and the performance of such other administrative responsibilities as the legislature may provide. [1975 1st ex.s. c 174 § 10.]

Reviser's note: See note following RCW 28C.04.010.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.090 Commission—Preparation of state plan for vocational education by, considerations—Allocation of funds, standard. (1) The commission in preparing the state plan for vocational education shall give consideration to the following:

(a) Vocational education for persons attending high school;

(b) Vocational education for persons who have completed or left high school and who are available for full time study in preparation for entering the labor market;

(c) Vocational education for persons (other than persons who are receiving training allowances under the Manpower Development and Training Act of 1962, Public Law 87-415, the Area Redevelopment Act, Public Law 87-27, or the Trade Expansion Act of 1962, Public Law 87-794 or any successor statutes thereto) who have already entered the labor market and who need training or retraining to achieve stability or advancement in employment;

(d) Vocational education for persons who have academic, socio-economic, or other handicaps that prevent them from succeeding in the regular vocational education program;

(e) Construction of area vocational educational school facilities, as authorized by the state board for community colleges and the state board of education; and

(f) Ancillary services and activities to assure quality in all vocational education programs, such as teacher training and supervision, program evaluation, special demonstrations and experimental programs, development of instructional materials, and state administration and leadership, including periodic evaluation of state and local vocational education programs and services in the light of information regarding current and projected manpower needs and job opportunities.

(2) In determining the allocation of funds, the commission shall comply with federal statute. [1975 1st ex.s. c 174 § 14; 1969 ex.s. c 223 § 28B.50.230. Prior: 1967 ex.s. c 8 § 23. Formerly RCW 28.85.230, 28B.50.230.]

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

Commission—Functions: RCW 28C.04.040.

Council as clearing house for technological programs under state plan for vocational education: RCW 28B.80.130.

28C.04.140 Fire service training. In addition to its other powers and duties, the coordinating council shall have the following powers and duties:

(1) Administer any legislation enacted by the legislature in pursuance of the aims and purposes of any acts of congress insofar as the provisions thereof may apply to the administration of fire service training;

(2) Establish and conduct fire service training courses;

(3) Construct, equip, maintain and operate necessary fire service training facilities: *Provided*, That the board's authority to construct, equip and maintain such facilities shall be subject to the provisions of chapter 43.19 RCW;

(4) Purchase, lease, rent or otherwise acquire real estate necessary to establish and operate fire service training facilities in the manner provided by law;

(5) Cooperate with the common schools, the institutions of higher education, and any department or division of the state government or of any county or municipal corporation, in establishing and maintaining instruction in fire service training in accordance with the provisions of any act of congress and legislation enacted by the legislature in pursuance thereof, and in establishing, building and operating training facilities; and

(6) Administer the funds provided by the federal government, and by the state under the provisions of any federal acts and of the acts passed by the legislature for the promotion of fire service training: *Provided*, That the provisions of this section apply only to the structural fire services and do not include those funds now or hereafter used for the forest fire services and do not include those funds now or hereafter used for the forest fire services training programs. [1969 ex.s. c 98 § 1. Formerly RCW 28.85.221, 28B.50.221.]

Coordinating council—Abolished—Transfer of responsibilities, personnel, property and equipment: RCW 28C.04.500.

Coordinating council—Abolished—Transfer of functions (including personnel, funds and equipment): RCW 28C.04.510.

28C.04.150 Cooperation mandated between common school and community college districts—New programs, procedure—Adjudication when dispute. Common school districts and community college districts shall cooperate in offering vocational education programs, particularly when establishing specialized facility support for such programs. Such cooperation shall also extend to noncredit vocational courses in common school community education programs and community college community service programs as the same are authorized in RCW 28A.58.247 and 28B.50.020.

Except as provided for by the rules and regulations of the commission, (1) common school vocational-technical institutes shall not offer new or expanded vocational programs outside their traditional service areas; (2) community colleges shall not offer new or expanded

vocational programs outside their college districts. Common school vocational-technical institutes and community colleges desiring to offer new or expanded programs outside their respective service areas or community college districts shall provide reasonable notice, as determined by the commission, to the common school and community college districts affected thereby.

If such joint cooperation cannot be attained at the local level the superintendent of public instruction and the state board for community college education shall attempt to resolve the matter. Matters unresolved shall be referred to the commission for adjudication. [1975 1st ex.s. c 174 § 7.]

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.160 Adult high school completion programs, authority to conduct. The superintendent of public instruction may authorize common schools to contract with community colleges to provide adult high school completion programs if he determines that such programs effectively fulfill the purposes of secondary education: *Provided*, That except as subject to the action of the superintendent of public instruction, adult high school completion programs conducted by the community colleges as authorized by RCW 28B.50.092 or 28B.50.535 shall remain in the community colleges. [1975 1st ex.s. c 174 § 11.]

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.200 Acceptance of federal acts. The state of Washington hereby accepts all the provisions and benefits of an act passed by the senate and house of representatives of the United States of America in congress assembled, entitled "An act to provide for the promotion of vocational education, to provide for cooperation with the states in the promotion of such education in agriculture and the trades and industries; to provide for cooperation with the states in the preparation of teachers of vocational subjects; and to appropriate money and regulate its expenditure", approved February 23, 1917; and of an act of congress entitled "An act to provide for the further development of vocational education in the several states and territories", approved June 8, 1936, and the Vocational Education Act of 1946 and supplemental vocational education acts including but not limited to Public Law 88-210. [1969 ex.s. c 223 § 28A.09.070. Prior: 1967 ex.s. c 8 § 27; 1939 c 183 § 1; 1919 c 160 § 1; RRS § 4919. Formerly RCW 28.09.070, 28A.09.070.]

28C.04.210 Custodian of special appropriations. The state treasurer is hereby designated and appointed custodian of all moneys received by the state from the appropriations made by the said acts of congress as provided for in RCW 28C.04.200 and is authorized to receive and to provide for the proper custody of the same and to make disbursements therefrom in the manner provided in said acts and for the purposes therein specified. He shall also, upon the order of the appropriate agency in accordance with the provisions of

those state acts relating to the promotion of vocational education, pay out any moneys appropriated by the state of Washington for the purpose of carrying out the provisions thereof relating to vocational education. [1969 ex.s. c 223 § 28A.09.080. Prior: 1967 ex.s. c 8 § 28; 1919 c 160 § 2; RRS § 4920. Formerly RCW 28.09.080, 28A.09.080.]

28C.04.220 Types of schools or classes. For the purposes of this chapter, vocational schools or classes may be established (1) as all day schools or classes giving instruction in vocational subjects; (2) as part time schools or classes giving instruction in vocational subjects; and (3) as evening school classes giving instruction supplemental to the daily employment. [1969 ex.s. c 223 § 28A.09.090. Prior: 1967 ex.s. c 8 § 29; 1919 c 160 § 6; RRS § 4924. Formerly RCW 28.09.090, 28A.09.090.]

28C.04.230 School district vocational education programs—Scope—Rules and regulations. The state board of education shall have the power to authorize the school districts to offer vocational education programs in the elementary and secondary schools and the state board shall adopt rules and regulations to implement such programs and shall also adopt such rules and regulations for programs authorized by RCW 28A.58.245 and 28B.50.770. [1971 ex.s. c 285 § 1; 1969 ex.s. c 261 § 24; 1969 ex.s. c 223 § 28B.50.240. Prior: 1967 ex.s. c 8 § 24. Like section formerly RCW 28.85.240. Formerly RCW 28B.50.240, 28A.09.100.]

28C.04.240 Children of certain citizens missing in action or prisoners of war exempt from fees—Limitations—Procedure. Children of any person who was a Washington domiciliary and who within the past eleven years has been determined by the federal government to be a prisoner of war or missing in action in Southeast Asia, including Korea, or who shall become so hereafter, shall be admitted to any public vocational-technical school within the state without the necessity of paying any registration fees or tuition therefor: *Provided, however*, That such child shall meet such other educational qualifications as such vocational-technical school shall deem reasonable and necessary under the circumstances. Affected institutions shall in their preparation of future budgets include therein costs resultant from such registration fee or tuition loss for reimbursement thereof from appropriations of state funds. Applicants for free tuition shall provide institutional administrative personnel with documentation of their rights under this section. [1973 c 63 § 1; 1972 ex.s. c 17 § 1. Formerly RCW 28A.09.200.]

Effective date—1973 c 63: "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: *Provided*, That qualified applicants under sections 1 and 2 of this 1973 amendatory act shall be admitted to such institutions free of tuition and such fees commencing not later than the next succeeding quarter, semester or like educational period beginning after the effective date of this 1973 amendatory act." [1973 c 63 § 3.] This applies to RCW 28C.04.240 and 28B.10.265. Because of the emergency clause above the effective date of the 1973 act was March 8, 1973.

Effective date—1972 ex.s. c 17: "This 1972 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: *Provided*, That qualified applicants under sections 1 and 2 of this 1972 act shall be admitted to such institutions tuition-free commencing not later than the next succeeding quarter, semester or like educational period beginning after the effective date of this 1972 act." [1972 ex.s. c 17 § 3.] This applies to RCW 28C.04.240 and 28B.10.265. Because of the emergency clause above the effective date of the 1972 act was February 19, 1972.

28C.04.300 State advisory council on vocational education—Created—Members—Qualifications—Appointment—Terms—Chairman—Meetings—Per diem and expenses. (1) There is hereby created a state advisory council on vocational education, hereinafter referred to as the "advisory council", consisting of not less than thirteen members appointed by the governor, without regard to the civil service laws, for terms of three years, except that in the case of the initial members, at least four shall be appointed for terms of one year each and at least four shall be appointed for terms of two years each, and appointments to fill vacancies shall be only for such terms as remain unexpired. The advisory council shall include persons who are:

(a) Familiar with the vocational needs and the problems of management and labor in the state, and a person or persons representing state industrial and economic development agencies;

(b) Representative of community colleges and other institutions of higher learning, area vocational schools, technical institutes, and postsecondary or adult education agencies or institutions, which may provide programs of vocational or technical education and training;

(c) Familiar with the administration of state and local vocational education programs, and a person or persons having special knowledge, experience, or qualifications with respect to vocational education and who are not involved in the administration of state or local vocational education programs;

(d) Familiar with programs of technical and vocational education, including programs in comprehensive secondary schools;

(e) Representative of local educational agencies, and a person or persons who are representative of school boards;

(f) Representative of manpower and vocational education agencies in the state, including a person or persons from the comprehensive area manpower planning system of the state;

(g) Representing school systems with large concentrations of academically, socially, economically, and culturally disadvantaged students;

(h) Possessed of special knowledge, experience, or qualifications, with respect to the special educational needs of physically or mentally handicapped persons; and

(i) Representative of the general public, including a person or persons representative of and knowledgeable about the poor and disadvantaged, who are not qualified for membership under any of the preceding clauses of this paragraph.

The advisory council shall meet at the call of the chairman, who shall be selected by vote of the members, but not less than four times a year.

(2) Members of the advisory council shall receive no compensation for their services thereon, but shall be reimbursed twenty-five dollars per diem for each day or portion thereof spent in serving as a member of the advisory council and shall be paid their necessary traveling expenses while engaged in the business of the advisory council as prescribed in chapter 43.03 RCW. [1969 ex.s. c 283 § 52. Formerly RCW 28.85.245, 28B.50.245.]

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

28C.04.310 State advisory council on vocational education—Powers and duties. The advisory council shall:

(1) Advise the commission on vocational education on the development of and policy matters arising in the administration of the state plan for federally funded vocational education pursuant to RCW 28C.04.090, including the preparation of long range and annual program plans therefor;

(2) Evaluate such vocational education programs, services, and activities assisted under this title, and publish and distribute the results thereof;

(3) Prepare and submit through the commission on vocational education to the federal commissioner of education and to the national advisory council on vocational education an annual evaluation report, accompanied by such additional comments of the commission as the commission deems appropriate, which (a) evaluates the effectiveness of federally funded vocational education programs, services, and activities carried out in the year under review in meeting the program objectives set forth in the long range program plan and the annual program plan, and (b) recommends such changes in such programs, services, and activities as may be warranted by the evaluations; and

(4) Obtain the services of an executive director and confidential secretary to such director, both of whom shall be exempt from the provisions of chapter 41.06 RCW, and such professional, technical, and clerical personnel as may be deemed necessary to enable it to carry out its functions under this section and to contract for such services as may be necessary to enable them to carry out their evaluation functions. [1975 1st ex.s. c 174 § 16; 1969 ex.s. c 283 § 53. Formerly RCW 28.85.246, 28B.50.246.]

Effective date—**Severability**—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

Reviser's note: Subsection (4) in session law language used "functions under this 1969 amendatory act" which has been translated "functions under this section", there being no other functions for the state advisory council on vocational education in 1969 ex.s. c 283.

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

28C.04.500 Coordinating council—Abolished—Transfer of responsibilities, personnel, property and equipment. The coordinating council for occupational education is hereby abolished effective midnight June

30, 1975, and its education responsibilities, personnel, property and equipment are transferred to the commission for vocational education unless otherwise provided for in this chapter. [1975 1st ex.s. c 174 § 9.]

Reviser's note: See note following RCW 28C.04.010.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

28C.04.510 Coordinating council—Abolished—Transfer of functions (including personnel, funds and equipment). The governor is hereby authorized, with the advice of the office of program planning and fiscal management to determine to which of the following state agencies those functions of the coordinating council for occupational education not herein transferred to the commission for vocational education shall be transferred: The council on higher education; the department of social and health services; the department of labor and industries; the superintendent of public instruction; the state board for community colleges, or any educational administrative agency created during the forty-fourth legislative session. The governor has the authority to transfer such personnel, funds, and equipment to the agency he so determines as may be necessary to carry out those functions. The governor shall make a report to the legislature concerning such determinations as he has made by December 1, 1975. All remaining funds of the coordinating council not disposed of or otherwise provided for in this chapter shall remain within the jurisdiction of the commission. [1975 1st ex.s. c 174 § 12.]

Reviser's note: (1) See note following RCW 28C.04.010.

(2) Phrase "functions of the coordinating council for occupational education not herein transferred to the commission" means not transferred in 1975 1st ex.s. c 174; for disposition of sections therein see note following RCW 28C.04.010.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

Title 29 ELECTIONS

Chapters

- 29.07 Registration of voters.
- 29.10 Registration transfers and cancellations.
- 29.13 Times for holding elections and primaries.
- 29.68 United States congressional elections.
- 29.80 Candidates' pamphlet.
- 29.85 Crimes and penalties.

Chapter 29.07 REGISTRATION OF VOTERS

Sections

29.07.092 New voter registration or transfer—Acknowledgment.

29.07.092 New voter registration or transfer—Acknowledgment. The county auditor shall acknowledge each new voter registration or transfer by providing or sending the voter a card identifying his current precinct

and containing such other information as may be prescribed by the secretary of state. [1975 1st ex.s. c 184 § 1; 1973 c 153 § 2.]

Severability—1975 1st ex.s. c 184: "If any provision of this 1975 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." [1975 1st ex.s. c 184 § 5.]

Chapter 29.10 REGISTRATION TRANSFERS AND CANCELLATIONS

Sections

- 29.10.020 Transfer from one address to another in same county—Authority—Request.
- 29.10.160 Transfer of registration due to address in precinct list of registered voters differing from permanent records—Procedure.

29.10.020 Transfer from one address to another in same county—Authority—Request. Any registered voter who changes his residence from one address 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, or in the manner provided by RCW 29.10.160, as now or hereafter amended. [1975 1st ex.s. c 184 § 2; 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.]

Severability—1975 1st ex.s. c 184: See note following RCW 29.07.092.

Rural precinct defined: RCW 29.01.150.

29.10.160 Transfer of registration due to address in precinct list of registered voters differing from permanent records—Procedure. After each primary and after each election, special or general, the county auditor shall compare the voter registration record with the signature and address of each voter as it appears in the precinct list of registered voters used at each such primary and each such election. If the address of any voter, as written by the voter, in the precinct list of registered voters does not agree with the address of the voter as stated on his permanent registration records, the registration officer shall enter the new address and precinct name or number on the permanent registration record and notify the voter, by mail, that his registration has been transferred in the manner provided by RCW 29.10.060 as now or hereafter amended: *Provided,* That 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. [1975 1st ex.s. c 184 § 3; 1971 ex.s. c 202 § 36; 1965 ex.s. c 156 § 8.]

Severability—1975 1st ex.s. c 184: See note following RCW 29.07.092.

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.
- 29.13.047 State to assume share of election costs when state officers or measures voted upon—Procedure.

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 of offices created by [or] whose duties are described in Article II, section 15, Article III, sections 16, 17, 19, 20, 21, 22 and 23, 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. [1975 2nd ex.s. c 3 § 1; 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.]

29.13.047 State to assume share of election costs when state officers or measures voted upon—Procedure. Whenever state officers or measures are voted upon at a state primary or general election held in 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. [1975 2nd ex.s. c 4 § 1; 1973 c 4 § 2.]

Chapter 29.68

UNITED STATES CONGRESSIONAL ELECTIONS

Sections

- 29.68.070 Vacancy in senatorship—Filling.

29.68.070 Vacancy in senatorship—Filling.

Reviser's note: The proposed amendment to RCW 29.68.070 by 1975 1st ex.s. c 89 § 1 was subject to the approval of the electorate at the November 4, 1975 election as Referendum Bill No. 35. As this publication went to press, the unofficial election returns indicated that the amendment had failed to gain such approval. The proposed amendment read as follows:

"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 occurring during an even-numbered year. Such temporary appointment shall be from a list of three names submitted to the governor by the state central committee of the same political party as the senator holding office prior to the vacancy. A vacancy occurring after the first day for filing specified in RCW 29.18.030 and prior to the general state election shall be filled by election at the next ensuing general state election occurring during an even-numbered year." [1975 1st ex.s. c 89 § 1.]

Chapter 29.80

CANDIDATES' PAMPHLET

Sections

- 29.80.010 Contents—Publication.

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 candidates' pamphlet shall be published, unless an election is to be held to fill a vacancy in one or more of the following state-wide elective offices: United States senator, governor, lieutenant governor, secretary of state, state treasurer, state auditor, attorney general, superintendent of public instruction, commissioner of public lands, insurance commissioner and justice of the supreme court. [1975 2nd

ex.s. c 4 § 2; 1973 c 4 § 8; 1965 c 9 § 29.80.010. Prior: 1959 c 329 § 19.]

Chapter 29.85 CRIMES AND PENALTIES

Sections

- 29.85.270 Political advertising—Use of assumed name—
Campaign advertising picture.
29.85.280 Political advertising—Campaign advertising pic-
ture—Penalty.

29.85.270 Political advertising—Use of assumed name—Campaign advertising picture. 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. At least one picture of the candidate used in any political advertising shall have been taken within the last five years and shall be no smaller than the largest picture of the same candidate used in the same advertisement. 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. [1975 1st ex.s. c 162 § 1; 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—Campaign advertising picture—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: *Provided*, That a violation of the provisions of RCW 29.85.270 relating to campaign advertising pictures shall constitute a misdemeanor and be punished accordingly. [1975 1st ex.s. c 162 § 2; 1965 c 9 § 29.85.280. Prior: 1955 c 317 § 2.]

Title 30 BANKS AND TRUST COMPANIES

Chapters

- 30.12 Officers, employees, and stockholders.**
30.20 Deposits.
30.42 Alien banks.
30.46 Supervisory direction—Conservatorship.

Chapter 30.12 OFFICERS, EMPLOYEES, AND STOCKHOLDERS

Sections

- 30.12.010 Directors—Election—Meeting—Stock—Va-
cancies—Oath.

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 but not later than May 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. [1975 c 35 § 1; 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.]

Chapter 30.20
DEPOSITS

Sections

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 department of revenue.

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 department of revenue. 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 department of revenue 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. [1975 1st ex.s. c 278 § 19; 1961 c 280 § 5.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.
Same, as to mutual savings banks: RCW 32.12.110.

Chapter 30.42
ALIEN BANKS

Sections

30.42.110 Powers and activities.
30.42.120 Requirements for accepting deposits or transacting business.
30.42.160 Powers as to real estate.

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 any foreign country and any state, county, province, city or other political subdivision thereof;
(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; and

(v) Full time employees of the branch.

(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) With respect to customers specified in subsection (2)(a)(v) of this section, for any lawful purpose.

(iv) Nothing herein shall permit a branch to make consumer loans to individuals except to the branch's own full time employees.

(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. The supervisor may adopt rules and regulations limiting the amount of loans to full time employees of the branch.

(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. [1975 1st ex.s. c 285 § 1; 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, computed on the basis of the average daily net deposit balances covering semimonthly periods as prescribed by the supervisor pursuant to RCW 30.04.090. 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. [1975 1st ex.s. c 285 § 2; 1973 1st ex.s. c 53 § 12.]

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.

(5) Such as shall be convenient for the residences of its employees.

No real estate except that specified in subsections (1) and (5) 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. [1975 1st ex.s. c 285 § 3; 1973 1st ex.s. c 53 § 16.]

Chapter 30.46 SUPERVISORY DIRECTION— CONSERVATORSHIP

Sections	
30.46.010	Definitions.
30.46.020	Grounds for determining need for supervisory direction—Abatement of determination—Supervisory direction, procedure—Conservator.
30.46.030	Supervisory direction—Appointment of representative to supervise—Restrictions on operations.
30.46.040	Conservator—Appointment—Grounds—Powers, duties and functions.
30.46.050	Costs as charge against bank's assets.
30.46.060	Request for review of action—Stay of action—Orders subject to review.
30.46.070	Suits against bank or conservator, where brought—Suits by conservator.
30.46.080	Duration of conservator's term—Rehabilitated banks—Management.
30.46.090	Authority of supervisor.
30.46.100	Rules and regulations.

30.46.010 Definitions. For the purposes of this chapter the following terms shall be defined as follows:

(1) "Unsafe condition" shall mean and include, but not be limited to, any one or more of the following circumstances:

(a) If a bank's capital is impaired or impairment of capital is threatened;

(b) If a bank violates the provisions of Title 30 RCW or any other law or regulation applicable to banks;

(c) If a bank conducts a fraudulent or questionable practice in the conduct of its business that endangers the bank's reputation or threatens its solvency;

(d) If a bank conducts its business in an unsafe or unauthorized manner;

(e) If a bank violates any conditions of its charter or any agreement entered with the supervisor; or

(f) If a bank fails to carry out any authorized order or direction of the bank examiner or the supervisor.

(2) "Exceeded its powers" shall mean and include, but not be limited to the following circumstances:

(a) If a bank has refused to permit examination of its books, papers, accounts, records, or affairs by the supervisor, his deputy or duly commissioned examiners; or

(b) If a bank has neglected or refused to observe an order of the supervisor to make good, within the time prescribed, any impairment of its capital.

(3) "Consent" includes and means a written agreement by the bank to either supervisory direction or conservatorship under this chapter. [1975 1st ex.s. c 87 § 1.]

30.46.020 Grounds for determining need for supervisory direction—Abatement of determination—Supervisory direction, procedure—Conservator. If upon examination or at any other time it appears to the supervisor that any bank is in an unsafe condition and its condition is such as to render the continuance of its business hazardous to the public or to its depositors and creditors, or if such bank appears to have exceeded its powers or has failed to comply with the law, or if such bank gives its consent, then the supervisor shall upon his determination (1) notify the bank of his determination, and (2) furnish to the bank a written list of the supervisor requirements to abate his determination, and (3) if the supervisor makes further determination to directly supervise, he shall notify the bank that it is under the supervisory direction of the supervisor and that the supervisor is invoking the provisions of this chapter. If placed under supervisory direction the bank shall comply with the lawful requirements of the supervisor within such time as provided in the notice of the supervisor, subject however, to the provisions of this chapter. If the bank fails to comply within such time the supervisor may appoint a conservator as hereafter provided. [1975 1st ex.s. c 87 § 2.]

30.46.030 Supervisory direction—Appointment of representative to supervise—Restrictions on operations. During the period of supervisory direction the supervisor may appoint a representative to supervise such bank and may provide that the bank may not do any of the following during the period of supervisory direction, without the prior approval of the supervisor or the appointed representative.

- (1) Dispose of, convey or encumber any of the assets;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property; or
- (6) Incur any debt, obligation, or liability. [1975 1st ex.s. c 87 § 3.]

30.46.040 Conservator—Appointment—Grounds—Powers, duties and functions. After the period of supervisory direction specified by the supervisor for compliance, if he determines that such bank has failed to comply with the lawful requirements imposed, upon due notice and hearing or by consent of the bank, the supervisor may appoint a conservator, who shall immediately take charge of such bank and all of its property, books, records, and effects. The conservator

shall conduct the business of the bank and take such steps toward the removal of the causes and conditions which have necessitated such order, as the supervisor may direct. During the pendency of the conservatorship the conservator shall make such reports to the supervisor from time to time as may be required by the supervisor, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such bank, including claims or causes of actions belonging to or which may be asserted by such bank, and to deal with the same in his own name as conservator, and shall be empowered to file, prosecute, and defend any suit and suits which have been filed or which may thereafter be filed by or against such bank which are deemed by the conservator to be necessary to protect all of the interested parties for a property affected thereby. The supervisor, or any newly appointed deputy, may be appointed to serve as conservator. If the supervisor, however, is satisfied that such bank is not in condition to continue business in the interest of its depositors or creditors under the conservator as above provided, the supervisor may proceed with appropriate remedies provided by other provisions of this title. [1975 1st ex.s. c 87 § 4.]

30.46.050 Costs as charge against bank's assets. All costs incident to supervisory direction and the conservatorship shall be fixed and determined by the supervisor and shall be a charge against the assets of the bank to be allowed and paid as the supervisor may determine. [1975 1st ex.s. c 87 § 5.]

30.46.060 Request for review of action—Stay of action—Orders subject to review. During the period of the supervisory direction and during the period of conservatorship, the bank may request the supervisor to review an action taken or proposed to be taken by the representative or conservator; specifying wherein the action complained of is believed not to be in the best interest of the bank, and such request shall stay the action specified pending review of such action by the supervisor. Any order entered by the supervisor appointing a representative and providing that the bank shall not do certain acts as provided in RCW 30.46.030 and 30.46.040, any order entered by the supervisor appointing a conservator, and any order by the supervisor following the review of an action of the representative or conservator as herein above provided shall be subject to review in accordance with the administrative procedure act of the state of Washington. [1975 1st ex.s. c 87 § 6.]

30.46.070 Suits against bank or conservator, where brought—Suits by conservator. Any suit filed against a bank or its conservator, after the entrance of an order by the supervisor placing such bank in conservatorship and while such order is in effect, shall be brought in the superior court of Thurston county and not elsewhere. The conservator appointed hereunder for such bank may file suit in any superior court or other court of competent jurisdiction against any person for the purpose of preserving, protecting, or recovering any asset

or property of such bank including claims or causes of action belonging to or which may be asserted by such bank. [1975 1st ex.s. c 87 § 7.]

30.46.080 Duration of conservator's term—Rehabilitated banks—Management. The conservator shall serve for such time as is necessary to accomplish the purposes of the conservatorship as intended by this chapter. If rehabilitated, the rehabilitated bank shall be returned to management or new managements under such conditions as are reasonable and necessary to prevent recurrence of the condition which occasioned the conservatorship. [1975 1st ex.s. c 87 § 8.]

30.46.090 Authority of supervisor. If the supervisor determines to act under authority of this chapter, the sequence of his acts and proceedings shall be as set forth in this chapter. However, it is the purpose and substance of this chapter to authorize administrative discretion—to allow the supervisor administrative discretion in the event of unsound banking operations—and in furtherance of that purpose the supervisor is hereby authorized to proceed with regulation either under this chapter or under any other applicable provisions of law or under this chapter in connection with other law, either as such law is now existing or is hereinafter enacted, and it is so provided. [1975 1st ex.s. c 87 § 9.]

30.46.100 Rules and regulations. The supervisor is empowered to adopt and promulgate such reasonable rules and regulations as may be necessary for the implementation of this chapter and its purposes. [1975 1st ex.s. c 87 § 10.]

Title 31

MISCELLANEOUS LOAN AGENCIES

Chapters

31.08 Small loan companies.

31.12 Credit unions.

31.12A Credit union share guaranty association act of 1975.

Chapter 31.08

SMALL LOAN COMPANIES

Sections

31.08.175 Insurance in connection with loans.

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: *Provided, however*, That if both husband and wife sign an obligation to repay the loan, each may be an insured borrower hereunder and a single identifiable insurance charge may be made by the licensee for the two jointly under a plan whereby both lives are insured but a death benefit is paid only upon the death of the spouse dying first. For such joint spouse coverage, the licensee may charge not more than one dollar per one hundred dollars per year computed on the same basis as herein prescribed for life insurance on one borrower. 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 pre-computed 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. [1975 1st ex.s. c 266 § 1; 1959 c 212 § 11.]

Severability—1975 1st ex.s. c 266: "If any provision of this 1975 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." [1975 1st ex.s. c 266 § 21.]

Chapter 31.12 CREDIT UNIONS

Sections

31.12.190	Powers and duties of directors.
31.12.200	Auditing committee—Elections—Terms—Powers and duties.
31.12.210	Compensation of directors and treasurer—Loans to directors.
31.12.240	Credit committee—Powers and duties.
31.12.260	Funds to be loaned, surplus to be deposited or invested—Banking prohibited.
31.12.270	Classes of loans—Preference—Term.
31.12.280	Limits and conditions of personal loans.
31.12.310	Dividends.
31.12.901	Severability—1975 1st ex.s. c 222.

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, and from the date of deposit to date of withdrawal. 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. [1975 1st ex.s. c 222 § 1; 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; 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. [1975 1st ex.s. c 222 § 2; 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.]

31.12.210 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. Loans to directors and committee persons shall be under at least the same conditions and terms as required of the general membership of the credit union. The treasurer elected by the board may receive such compensation as the board may authorize. [1975 1st ex.s. c 222 § 3; 1973 1st ex.s. c 8 § 6; 1957 c 23 § 6; 1943 c 131 § 14; 1933 c 173 § 17; Rem. Supp. 1943 § 3923-17.]

31.12.240 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 loans granted and any security pledged therefor.

No 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. [1975 1st ex.s. c 222 § 4; 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.]

31.12.260 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 or in checking accounts of banks in other states in which accounts are insured by the Federal Deposit Insurance Corporation;

(b) In any bond or securities or other investments 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. [1975 1st ex.s. c 222 § 5; 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;

(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; and

(6) Loans to its members under the act of congress known as the "FHA Title 1, National Housing Act of 1934", June 27, 1934 (12 USC sections 1701 to 1750 inc.).

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. [1975 1st ex.s. c 222 § 6; 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. Unsecured loans may be made to members not to exceed five hundred dollars for credit unions whose unimpaired capital and surplus is less than eight thousand dollars or up to two and one-half percent of the unimpaired capital and surplus of any other credit union not to exceed two thousand five hundred dollars. Loans with adequate security may be made to members of a family community in an aggregate amount not to exceed five hundred dollars or ten percent of the credit union's unimpaired capital and surplus, whichever is greater: *Provided*, That personal loans which are not totally secured by share deposits shall not exceed twelve thousand dollars without permission of the supervisor. [1975 1st ex.s. c 222 § 7; 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.

31.12.310 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 seven 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. [1975 1st ex.s. c 222 § 8; 1943 c 131 § 19; 1933 c 173 § 25; Rem. Supp. 1943 § 3923-25.]

31.12.901 Severability—1975 1st ex.s. c 222. If any provision of this 1975 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. [1975 1st ex.s. c 222 § 9.]

Chapter 31.12A CREDIT UNION SHARE GUARANTY ASSOCIATION ACT OF 1975

Sections

31.12A.005	Purpose.
31.12A.010	Definitions.
31.12A.020	Guaranty association created.
31.12A.030	Powers of the association.
31.12A.040	Membership—Association operative date.
31.12A.050	Funding—Liquidity—Investments—Termination.
31.12A.060	Management.
31.12A.070	First meeting of members and board of directors.
31.12A.080	Bylaws.
31.12A.090	Liquidation of members—Assessment.
31.12A.100	Payment to shareholders—Subrogation.
31.12A.110	Disposition of amounts recovered.
31.12A.120	Reports—Recommendations—Examination.
31.12A.130	Taxation.
31.12A.140	Immunity.
31.12A.900	Short title.
31.12A.910	Construction—1975 1st ex.s. c 80.
31.12A.920	Section headings not part of law.
31.12A.930	Effective date—1975 1st ex.s. c 80.
31.12A.940	Severability—1975 1st ex.s. c 80.

31.12A.005 Purpose. The purpose of this chapter is to provide funds arising from assessments upon member credit unions chartered by the state of Washington to guarantee payment, to the extent herein provided, to credit union shareholders of the amount of loss to their share and deposit accounts in a liquidating member credit union, and to provide other services to promote the stability of state-chartered credit unions. In the judgment of the legislature, the foregoing purposes not being capable of accomplishment by a corporation created under general laws, the creation of the nonprofit association hereinafter in this chapter described is deemed essential for the protection of the general welfare. [1975 1st ex.s. c 80 § 2.]

31.12A.010 Definitions. As used in this chapter unless the context otherwise requires:

- (1) "Association" means the credit union share guaranty association created in RCW 31.12A.020;
- (2) "Board" means board of directors of the guaranty association;
- (3) "Credit union" means a credit union organized and authorized under laws contained in chapter 31.12 RCW, as now or hereafter amended;
- (4) "Initial member" means a member qualified by the supervisor within sixty days after September 1, 1975 but not yet ratified by the board;
- (5) "Member" means a member of the guaranty association, ratified by the board;
- (6) "Share account" of a credit union shareholder includes the share accounts and/or deposit accounts of which the shareholder is owner of record with the credit union; and
- (7) "Supervisor" means the state supervisor of the division of savings and loan associations, or his successor in the event of a departmental restructuring. [1975 1st ex.s. c 80 § 3.]

31.12A.020 Guaranty association created. There is hereby created a nonprofit unincorporated legal entity to be known as the Washington credit union share guaranty association, which shall be comprised of state-chartered credit unions in the state of Washington and governed by a board of directors as in RCW 31.12A-.060 provided. [1975 1st ex.s. c 80 § 4.]

31.12A.030 Powers of the association. The association shall have power:

- (1) To use a seal, to contract, to sue and be sued;
- (2) To make bylaws for conduct of its affairs, not inconsistent with the provisions of this chapter;
- (3) To lend and to borrow money, and require and give security;
- (4) To receive, collect, and enforce by legal proceedings, if necessary, payment of all assessments for which any member may be liable under this chapter, and payment of any other debt or obligation due the association;
- (5) To invest and reinvest its funds in investments permitted for credit unions in RCW 31.12.260, as now or hereafter amended, provided such investments do not exceed a maximum maturity of ninety days;
- (6) To acquire, hold, convey, dispose of and otherwise engage in transactions involving or affecting real and personal property of all kinds; and
- (7) To carry out the applicable provisions of this chapter. [1975 1st ex.s. c 80 § 5.]

31.12A.040 Membership—Association operative date. (1) Every credit union meeting the following qualifications is eligible for membership in the association:

- (a) Must be in business as a duly authorized credit union.
- (b) Must be operating in compliance with applicable laws and the rules and regulations of the supervisor.
- (c) Must not be in the process of liquidation, either voluntary or involuntary.

(2) Prior to the operative date stated in subsection (3) hereof, application for membership shall be made by the credit union in writing to the association on forms designed and furnished by the association, and filed with the secretary-treasurer. An application fee, as fixed in the bylaws for operation expense, payable to the order of the association, shall accompany each such application. Should additional operational funds become necessary, an assessment not to exceed an amount, as fixed in the bylaws, per year may be levied by the board against each member. If the application is found to be:

(a) Complete, and the applicant qualified for membership: The association shall issue and deliver to the applicant a certificate of membership in appropriate form.

(b) Incomplete: The association shall require the applicant to refile said application in its entirety within thirty days.

(c) Not qualified: The association shall notify said applicant within thirty days of filing: *Provided*, That said applicant will be allowed to meet qualification standards under conditions as provided in the bylaws of the association.

(3) The initial membership of the association shall be comprised of all those credit unions qualified under subsection (1) hereof by the supervisor within sixty days after September 1, 1975, with final ratification by the initial board of directors subject to full compliance of all qualifications for membership within one hundred twenty days after September 1, 1975.

(4) Membership in either this association or the federal share insurance program under the national credit union administration shall be mandatory. [1975 1st ex.s. c 80 § 6.]

31.12A.050 Funding—Liquidity—Investments—Termination. (1) Establishment of the share guaranty association contingency reserve shall be accomplished by setting aside from each member's guaranty fund an amount equal to one-half of one percent of the total insurable outstanding shares and deposit balances as of the 31st of December preceding September 1, 1975. Such sum shall be retained in the credit union share guaranty contingency reserve as an integral part of its guaranty fund until such time and if necessary to be drawn for the purpose set forth in this chapter.

(2) Continued funding of the association shall be by assessment at the rate of one-forty-fifth of one percent of each member's insurable outstanding share and deposit balance as of December 31st each year commencing the year subsequent to September 1, 1975. Such funds shall be retained by the member in its share guaranty contingency reserve. Such sum may be offset from the statutory transfer requirement to the guaranty fund. The board, with concurrence of the supervisor, shall have authority to assess an additional amount not to exceed one-forty-fifth of one percent of each member's insurable share and deposit balance in any one year, as conditions may warrant.

(3) Members' share guaranty association contingency reserve funds shall be invested in investments as permitted in the bylaws of the association.

(4) The board, in concurrence with the supervisor, may also suspend or diminish the assessment in any given period after reaching a normal operating sufficiency as provided in the bylaws.

(5) Membership in this association may be terminated upon approval by a majority of the credit union members responding to such a proposal and subject further to acceptance by the national credit union administration of continued share insurance coverage under the national credit union administration share insurance program. Notice of such intentions shall be in writing to the association's board of directors at least twelve months prior to such contemplated action: *Provided*, That in the event of conversion from state to federal credit union charter the converting member will notify the association in compliance with RCW 31.12-.390. Share guarantee coverage through the association will terminate with the effective date of the federal charter. [1975 1st ex.s. c 80 § 7.]

31.12A.060 Management. (1) The affairs and operations of the association shall be managed and conducted by a board of directors and officers.

(2) The board shall consist of not more than five directors, as provided by the bylaws. Directors shall be elected by members for terms, as fixed by the bylaws, of not more than three years. The board shall have power to fill vacancies occurring during the interim between annual meetings and until an election is held at the next annual meeting, to fill that portion of the unexpired term.

(3) The officers shall be elected by the board, and shall be a chairman of the board, a vice chairman, and a secretary-treasurer. The officers shall have the usual and customary powers and responsibilities of the respective offices, as fixed by the bylaws.

(4) The directors shall be compensated only to the extent of actual out-of-pocket travel and meeting expenses as provided in the bylaws. [1975 1st ex.s. c 80 § 8.]

31.12A.070 First meeting of members and board of directors. (1) Within thirty days after the operative date of this chapter, the supervisor shall call a first meeting of the initial members of the association for the purpose of electing directors and shall give written notice of the time and place of such meeting. The meeting shall be held within sixty days after such operative date, at a place in this state selected by the supervisor and of convenience to members. The supervisor shall preside at the meeting.

(2) The initial board of directors shall meet within thirty days after the first meeting of members, to elect officers, consider bylaws, and transact such other business relating to the association as may properly come before it. [1975 1st ex.s. c 80 § 9.]

31.12A.080 Bylaws. (1) The first bylaws of the association shall be as adopted by its initial board, and the board shall so adopt bylaws within three months after the association has become operative. All bylaws, and amendments thereof, shall be promptly filed with, and are subject to the approval of, the supervisor, and shall be approved if found by the supervisor to be reasonable, and fair and equitable to the association and its members. Among the customary, useful, and desirable provisions the bylaws shall provide:

(a) For the date and place of holding the annual meeting of members.

(b) Procedure for holding of special meetings.

(c) For voting privilege.

(d) For quorum requirements.

(e) For qualifications of directors, for procedures for nomination, election and removal of directors; and number, term and compensation of directors.

(f) For the bonding of any individual who may be expected to handle funds for the association.

(g) Qualifications for membership.

(h) Duties of officers.

(i) Application fees and assessment fees.

(j) Fines, if any.

(k) Coverage loss limits.

(l) Powers and duties of the board.

(m) Types of investments, liquidity, and normal operating sufficiency.

(n) Such other regulations as may be deemed necessary.

(2) After adoption of initial bylaws by the board, the bylaws shall be subject to amendments only by vote of the members. The secretary-treasurer of the association shall promptly file all bylaws and amendments with the supervisor. No bylaws or amendments thereto, except the adoption of initial bylaws, shall be effective until approved by the supervisor as hereinabove in this section provided. [1975 1st ex.s. c 80 § 10.]

31.12A.090 Liquidation of members—Assessment.

(1) In the event a member of the association is placed in liquidation, either voluntary or involuntary, the supervisor or his representative shall determine as soon as is reasonably possible the probable net assessment, if any, resulting therefrom to its shareholders. If a net assessment seems to be indicated, the supervisor or his representative shall promptly inform the association in writing of the probable amount of such assessment. In determining the probable net assessment of the liquidating member, charges, if any, for services of the supervisor or his representative, or his staff, as well as accrued but unpaid interest or dividends on share accounts, shall not be deemed liabilities of the liquidating credit union; and, with the consent of the association, all illiquid holdings (furniture, fixtures and other personal property) of the liquidating member, at the fair recoverable value thereof, as determined by the supervisor or his representative, may be excluded as assets. In determining the net assessment as to a particular share account, the supervisor or his representative shall first deduct the amount of any accrued and currently

payable obligation of the shareholder to the liquidating credit union.

(2) Within thirty days after receipt by the association of the foregoing information, the board shall notify the remaining members of the association of the aggregate amount required to make good the probable net loss to share accounts, subject to the following conditions:

(a) The amount of loss to be made good to any shareholder shall not be less than provided by the national credit union administration share insurance program, with authority vested in the association to increase the coverage.

(b) To the amount of the assessment as otherwise determined pursuant to this section, the board may add such amount as it may deem to be reasonably necessary to cover its clerical, mailing and other expense connected with the assessment and distribution of the proceeds thereof to shareholders of the liquidating credit union, not to exceed actual costs of such mailing and clerical services.

(c) The gross amount of the assessment shall be prorated among the assessed members against their share guaranty contingency reserve: *Provided*, That members shall not be liable for any amount of assessment exceeding their share guaranty contingency reserve or for any assessments exceeding those permitted in RCW 31.12A.040 and 31.12A.050 as now or hereafter amended.

(d) That a plan for an orderly and expeditious liquidation be presented to the board of directors for their consideration and approval. In cases where a central or other eligible credit union is authorized to act as liquidator or liquidating agent, the association would provide an indemnity against loss to such authorized credit union.

(3) In case of liquidation the board shall cause written notice to each member stating whether a potential assessment is indicated and, if so, the probable amount of such contingency as it relates to a percentage of their total share guaranty contingency reserve. Actual assessment, if any, shall be paid by members upon completion of liquidation or sooner, as determined by the board of directors. In all cases the total reserve structure of a liquidating credit union, including its share guaranty contingency reserve, shall be utilized in concluding the liquidation. [1975 1st ex.s. c 80 § 11.]

31.12A.100 Payment to shareholders—Subrogation. (1) Upon collection in full of the amount assessed against members as provided for in RCW 31.12A.090, or other provision satisfactory to the board, the association shall conclude the liquidation subject to acceptance by the supervisor.

(2) If illiquid holdings of the liquidating member have not been included as assets in determining net loss to share accounts, as provided for in RCW 31.12A.090(1), the association shall be subrogated to all rights of shareholders with respect to such holdings and to the extent of the value thereof so excluded and reflected in the assessment of association members; and the officers of the liquidating member or other persons having authority with respect thereto shall execute such conveyances, assignments, or other documents as may be

requested by the association to facilitate recovery by the association in due course of the amount of its interest in such assets or so much thereof as may in fact be recoverable. The association shall have the right to bring and maintain suit or other action in its own name for the enforcement of any right of the insolvent member or its shareholders with respect to any such asset. [1975 1st ex.s. c 80 § 12.]

31.12A.110 Disposition of amounts recovered. Amounts recovered by the association pursuant to its right of subrogation as provided in RCW 31.12A.100(2) shall be refunded pro rata to those members who paid assessments out of which right of subrogation arose. [1975 1st ex.s. c 80 § 13.]

31.12A.120 Reports—Recommendations—Examination. (1) Within sixty days after expiration of each calendar year, the association shall render a report in writing of its financial affairs and transactions for the year, and of its financial condition at year-end. The association shall furnish a copy of the report to each member and to the supervisor.

(2) The financial affairs of the association shall be subject to examination by the supervisor at such intervals as he may deem advisable in relation to the extent of the association's activities. The cost of examination shall be borne by the association. In lieu of his own examination, the supervisor may accept the report of any competent accountant, satisfactory to the supervisor. [1975 1st ex.s. c 80 § 14.]

31.12A.130 Taxation. The association shall be exempt from all taxes and fees now or hereafter imposed by the state of Washington or any county, municipality, or local authority or subdivision; except that any real property owned by the association shall be subject to taxation to the same extent according to its value as other real property is taxed. [1975 1st ex.s. c 80 § 15.]

31.12A.140 Immunity. There shall be no separate and individual liability on the part of and no cause of action of any nature shall arise against any member insurer, agents or employees of the association, the board of directors, or the supervisor or his representatives, for any action taken by them in the performance of their powers and duties under this chapter. [1975 1st ex.s. c 80 § 16.]

31.12A.900 Short title. This chapter shall be known and may be cited as the Washington credit union share guaranty association act. [1975 1st ex.s. c 80 § 17.]

31.12A.910 Construction—1975 1st ex.s. c 80. This chapter shall be liberally construed to effect the purpose stated in RCW 31.12A.005, which shall constitute an aid and guide to interpretation. [1975 1st ex.s. c 80 § 18.]

31.12A.920 Section headings not part of law. Section headings in this act do not constitute any part of the law. [1975 1st ex.s. c 80 § 19.]

31.12A.930 Effective date—1975 1st ex.s. c 80. This act shall become effective on September 1, 1975. [1975 1st ex.s. c 80 § 21.]

31.12A.940 Severability—1975 1st ex.s. c 80. If any clause, sentence, paragraph, section or part of this act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment has been rendered. [1975 1st ex.s. c 80 § 20.]

Title 32 MUTUAL SAVINGS BANKS

Chapters

32.08 Organization and powers.

32.12 Deposits—Earnings—Dividends—Interest.

32.30 Conversion of mutual savings bank to building and loan or savings and loan association.

Chapter 32.08 ORGANIZATION AND POWERS

Sections

32.08.150 Merchandising—Certificates of deposit.
32.08.210 Power to act as trustee—Authorized trusts—Limitations—Application to act as trustee, fee—Approval or refusal of application—Right of appeal—Use of word "trust"

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 six 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. [1975 c 15 § 1; 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.]

32.08.210 Power to act as trustee—Authorized trusts—Limitations—Application to act as trustee, fee—Approval or refusal of application—Right of

appeal—Use of word "trust". A mutual savings bank shall have the power to act as trustee under:

(1) A trust established by an inter vivos trust agreement or under the will of a deceased person.

(2) 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, or a trust established in connection with any pension, profit sharing, or retirement benefit plan of any corporation, partnership, association, or individual, including but not limited to retirement plans 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, or plans established pursuant to the provisions of the act of congress entitled "Employee Retirement Income Security Act of 1974", as now constituted or hereafter amended.

A mutual savings bank may be appointed to and accept the appointment of personal representative of the last will and testament, or administrator with will annexed, of the estate of any deceased person and to be appointed and to act as guardian of the estate of minors and incompetent and disabled persons.

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. The incidental trust powers to act as agent in the management of trust property and the transaction of trust business in Title 30 RCW shall apply to a mutual savings bank exercising the powers granted under this section insofar as the incidental powers relate to exercising the powers granted under this section.

Before engaging in trust business, a mutual savings bank shall apply to the supervisor of banking on such form as he shall determine and pay the same fee as required for a state bank to engage in trust business. In considering such application the supervisor shall ascertain from the best source of information at his command and by such investigation as he may deem necessary whether the management and personnel of the mutual savings bank are such as to command confidence and warrant belief that the trust business will be adequately and efficiently conducted in accordance with law, whether the resources in the neighborhood of such place and in the surrounding country afford a reasonable promise of adequate support for the proposed trust business and whether the resources of the mutual savings bank are sufficient to support the conduct of such trust business, and that the mutual savings bank has and maintains, in addition to its guaranty fund, undivided profits against which the depositors have no prior claim in an amount not less than would be required of a state bank or trust company, which undivided profits shall be eligible for investment in the same manner as the guaranty fund of a mutual savings bank. Within sixty days after receipt of such application, the supervisor shall either approve or refuse the same and forthwith return to the mutual savings bank a copy of

the application upon which his decision has been endorsed. The supervisor shall not be required to approve or refuse an application until thirty days after any appropriate approval has been obtained from a federal regulatory agency. 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. A mutual savings bank shall not use the word "trust" in its name, but may use the word "trust" in its business or advertising. [1975 1st ex.s. c 265 § 1; 1969 c 55 § 12.]

Chapter 32.12

DEPOSITS—EARNINGS—DIVIDENDS—INTEREST

Sections

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 department of revenue.

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 department of revenue. 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 department of revenue 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. [1975 1st ex.s. c 278 § 20; 1963 c 176 § 12. Cf. 1961 c 280 § 5; RCW 30.20.100.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 32.30
CONVERSION OF MUTUAL SAVINGS BANK TO BUILDING AND LOAN OR SAVINGS AND LOAN ASSOCIATION
(See Chapter 33.46 RCW)

Title 33
SAVINGS AND LOAN ASSOCIATIONS

Chapters

- 33.16 Directors, officers and employees.
- 33.20 Members—Savings.
- 33.24 Loans and investments.
- 33.44 Conversion to mutual savings bank.
- 33.46 Conversion of mutual savings bank to building and loan or savings and loan association.

Chapter 33.16
DIRECTORS, OFFICERS AND EMPLOYEES

Sections

33.16.110 Budget—Limit of expenses.

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: *Provided*, That as an alternative to a calendar year the board may adopt a fiscal year.

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. [1975 1st ex.s. c 165 § 2; 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.

Chapter 33.20
MEMBERS—SAVINGS

Sections

33.20.035 Payment of funds to foreign executor or administrator—Form, publication of notice of application by such executor or administrator—Consent of department of revenue.

33.20.035 Payment of funds to foreign executor or administrator—Form, publication of notice of application by such executor or administrator—Consent of department of revenue. In addition to any other powers and duties authorized by law, upon the death of any person having funds held by or on deposit with any state-chartered savings and loan association, such association 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 association 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 [department of revenue] to such payment or receipt for payment of any inheritance tax due has been received by such savings and loan association: *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 association 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 savings and loan association 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 association shall be sufficient proof of such publication.

This section shall be applicable to federally-chartered savings and loan associations operating within the state insofar as federal law and rules and regulations promulgated thereunder so permit. [1975 1st ex.s. c 165 § 1.]

**Chapter 33.24
LOANS AND INVESTMENTS**

Sections
33.24.280 Capital stock, capital debentures and bonds issued by corporations.

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 savings 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. [1975 1st ex.s. c 165 § 3; 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.

**Chapter 33.44
CONVERSION TO MUTUAL SAVINGS BANK**

Sections
33.44.020 Conversion to a mutual savings bank—Procedure.

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, or under the laws of the United States, may, if its contingent fund regularly accumulated, exclusive of any reserve fund stock, amounts to not less than five thousand dollars and if it has obtained the approval, required by law or regulation, of any federal agencies, including the federal home loan bank board and the

federal savings and loan insurance corporation, 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, except that no such filing shall be required in the case of an association organized under the laws of the United States.

(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, except that no such conference shall be pertinent to such investigation or determination in the case of an association organized under the laws of the United States. 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. [1975 1st ex.s. c 111 § 1; 1927 c 177 § 1; 1917 c 154 § 1; RRS §§ 3749 through 3754. Formerly RCW 33.44.020 through 33.44.070.]

Chapter 33.46 CONVERSION OF MUTUAL SAVINGS BANK TO BUILDING AND LOAN OR SAVINGS AND LOAN ASSOCIATION

Sections	
33.46.010	Definitions.
33.46.020	Conversion of bank to association—Procedure.
33.46.030	Cash contributions to expense fund.
33.46.040	Appeal from denial of application.
33.46.050	Certificate of reincorporation—Required—Filing—Contents.
33.46.060	Issuance of authorization certificate—Filing—Completion of conversion—Effect.
33.46.070	Depositors become shareholders—Withdrawal.
33.46.080	Transfer of securities—Contingent fund—Conformance to association laws.
33.46.090	Assets, liabilities, etc., vested in association upon conversion.
33.46.100	Initial meeting of shareholders—Notice—Proxy voting.
33.46.110	Conversion to federal association—Procedure.

33.46.010 Definitions. As used in this chapter, unless the context indicates otherwise:

(1) "Association" means any building and loan or savings and loan association or society organized under the laws of this state or a savings and loan association organized under the laws of the United States of America;

(2) "Director" means a member of the managing board of an association;

(3) "Bank" means a mutual savings bank organized under the laws of this state; and

(4) "Trustee" means a member of the managing board of a bank. [1975 1st ex.s. c 83 § 1.]

33.46.020 Conversion of bank to association—Procedure. Any going bank may, if its guaranty fund regularly accumulated amounts to five thousand dollars or more, be converted into an association in the following manner:

(1) The trustees of such bank shall pass, by at least a two-thirds favorable vote of all trustees, a resolution declaring its intention to convert the bank into an association, specifying in such resolution the type of association and whether the association is to be organized under the laws of this state, or is to be organized under the laws of the United States of America. If the association is to be a state association the bank shall apply to the supervisor of savings and loan associations for authority to convert into an association;

(2) A duplicate of the application made to the supervisor of savings and loan associations, or such application as may be filed with the federal home loan bank board or other federal agency, shall be filed with the supervisor of banking;

(3) The supervisor of savings and loan associations shall, in the case of an application to convert into a state association, make the same investigation and determine the same questions as he would be required by law to make in determining the case of submission to him of articles of incorporation of a proposed new state association, and shall also determine, after conference with the supervisor of banking, whether the proposed conversion would serve the needs and conveniences of the depositors of such bank; and

(4) The supervisor of savings and loan associations shall grant or deny the application within sixty days of its date of filing and shall immediately notify the secretary of such bank of his decision. [1975 1st ex.s. c 83 § 2.]

33.46.030 Cash contributions to expense fund. If the application is granted to become a state association, the supervisor of savings and loan associations shall require the applicant to enter into an agreement or undertaking with him, as trustee for the shareholders of the association, to make such cash contributions to an expense fund of the association as in his judgment will be necessary then and from time to time thereafter to pay the operating expenses of the association 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 shareholders from its earnings. [1975 1st ex.s. c 83 § 3.]

33.46.040 Appeal from denial of application. If the application is denied by the supervisor of savings and loan associations, the bank, acting by a two-thirds majority of its trustees, may, within thirty days after receiving notice of such denial, appeal to the superior court of Thurston county pursuant to the provisions of the administrative procedure act, chapter 34.04 RCW. [1975 1st ex.s. c 83 § 4.]

33.46.050 Certificate of reincorporation—Required—Filing—Contents. If the application is granted by the supervisor of savings and loan associations, or by the court, the trustees of such bank shall, within thirty days thereafter, subscribe, acknowledge, and file with the supervisor of savings and loan associations, in quadruplicate, a certificate of reincorporation stating:

(1) The name by which the association is to be known, which name shall include the words "building and loan" or "savings and loan", and "association" or "society";

(2) The place where the association is to be located and its business transacted, naming the city or town and the county, which city or town shall be the same as that where the principal place of business of the bank has theretofore been located;

(3) The name, occupation, residence, and post office address of each signer of the certificate;

(4) The amount of the assets of the association, the amount of its liabilities, and the amount of its guaranty fund as of the first day of the calendar month during which the certificate is filed; and

(5) A declaration that each signer will accept the responsibilities and faithfully discharge the duties of a director of the association, and is free from all the disqualifications specified in the laws applicable to savings and loan associations. [1975 1st ex.s. c 83 § 5.]

33.46.060 Issuance of authorization certificate—Filing—Completion of conversion—Effect. Upon filing the certificate in quadruplicate as provided in RCW 33.46.050, the supervisor of savings and loan associations 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 association has complied with all of the requirements of law, and that it has authority to transact, at the place or places designated in its certificate, the business of an association. The supervisor of savings and loan associations shall retain one set of the quadruplicate originals of the certificate of reincorporation and of the certificate of authorization and shall transmit the other three sets to the association, which shall retain one set, file one set with the secretary of state, and file one set with the auditor of the county in which the home office of the association is located, paying the required fees. Upon such filings being made, the conversion of such bank to such association shall be deemed complete and consummated, and the association shall thereupon be a corporation having the powers and being subject to the duties and obligations prescribed by the laws of this state applicable to state associations, and the time of existence of such association shall be perpetual, unless sooner terminated. [1975 1st ex.s. c 83 § 6.]

33.46.070 Depositors become shareholders—Withdrawal. Upon the conversion of a bank into an association, every person who was a depositor of the bank at the time of the conversion shall become and be deemed to be a shareholder or depositor of the association in a sum equal to the withdrawal value of his deposits in the bank as of the day on which the conversion was consummated, and every such shareholder shall share in the interest paid by the corporation to that day as though the conversion had not been effected: *Provided*, That any person who was a depositor of the bank shall be entitled, at any time within sixty days after the conversion was consummated, to withdraw the value of his deposits as though no conversion had taken place. [1975 1st ex.s. c 83 § 7.]

33.46.080 Transfer of securities—Contingent fund—Conformance to association laws. All mortgages, notes, and other securities of any bank that has been converted into an association shall, on request of the association, be delivered to it by the supervisor of banking or, under his direction, by any trust company

or other depository having possession thereof. The guaranty fund of the bank shall become the contingent fund of the association. If the association is a state association it shall, as soon as practicable and within such time and by such methods as the supervisor of savings and loan associations 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 state associations. [1975 1st ex.s. c 83 § 8.]

33.46.090 Assets, liabilities, etc., vested in association upon conversion. Upon a conversion being consummated all assets, rights and properties of the bank shall vest in and be the property of the association and all liabilities, debts, and obligations of the bank shall be the liabilities, debts, and obligations of the association and any right can be enforced by or against the association the same as it could have been enforced by or against the bank if the conversion had not occurred. [1975 1st ex.s. c 83 § 9.]

33.46.100 Initial meeting of shareholders—Notice—Proxy voting. Within twelve months following consummation of the conversion, the directors of a state association shall call a meeting of the shareholders for the purpose of electing directors and conducting such other business of the association as is appropriate. Notice of such meeting shall be mailed not less than ten nor more than thirty days in advance of such meeting to the last known address of each shareholder. Such notice may also include a proxy form authorizing any one or more persons, who may be directors or officers of the association, selected by the directors, to vote on behalf of any shareholder executing such proxy. [1975 1st ex.s. c 83 § 10.]

33.46.110 Conversion to federal association—Procedure. If the bank specifies in the resolution that it intends to become a federal association it shall proceed to make all filings and do all things which are required by federal laws and regulations to qualify as and become a federal association, and when all such things have been accomplished and a charter has been issued by the appropriate federal agency, the bank shall thereupon cease to be a mutual savings bank organized under the laws of this state. [1975 1st ex.s. c 83 § 11.]

**Title 34
ADMINISTRATIVE LAW**

Chapters

34.04 Administrative procedure act.

**Chapter 34.04
ADMINISTRATIVE PROCEDURE ACT**

Sections

34.04.120 Contested cases—Adverse decisions and orders—Findings and conclusions.

Procedures of various agencies educational employment relations act: Chapter 41.59 RCW.

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 and to his attorney of record, if any. [1975 c 12 § 1; 1959 c 234 § 12.]

**Title 35
CITIES AND TOWNS**

Chapters

- 35.02 Incorporation proceedings.**
- 35.03 Incorporation of first class cities.**
- 35.04 Incorporation of intercounty areas.**
- 35.13 Annexation of unincorporated areas.**
- 35.20 Municipal courts—Cities over five hundred thousand.**
- 35.21 Miscellaneous provisions affecting all cities and towns.**
- 35.22 First class cities.**
- 35.23 Second class cities.**
- 35.24 Third class cities.**
- 35.39 Fiscal—Finance committee—Investment of funds.**
- 35.42 Leases.**
- 35.58 Metropolitan municipal corporations—Public transportation.**
- 35.77 Streets—Planning, establishment, construction, and maintenance.**
- 35.81 Urban renewal law.**
- 35.86 Off-street parking facilities.**
- 35.86A Off-street parking—Parking commissions.**
- 35.92 Municipal utilities.**
- 35.95 Public transportation systems in cities and metropolitan municipal corporations—Financing.**

**Chapter 35.02
INCORPORATION PROCEEDINGS**

Sections

- 35.02.070 Findings by board of county commissioners—Establishment of boundaries—Limitation.**
- 35.02.170 Centerlines of streets, roads or highways as corporate boundaries—Prohibition—Use of right of way lines.**

35.02.070 Findings by board of county commissioners—Establishment of boundaries—Limitation. Upon final hearing on a petition for incorporation the board shall, subject to RCW 35.02.170, 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. [1975 1st ex.s. c 220 § 3; 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.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

35.02.170 Centerlines of streets, roads or highways as corporate boundaries—Prohibition—Use of right of way lines. After September 8, 1975, centerlines of public streets, roads or highways shall not be used to define any part of a boundary of a city or town in an incorporation or annexation proceeding. The right of way line of any public street, road or highway, or any segment thereof, may be used to define a part of a corporate boundary in an incorporation or annexation proceeding. [1975 1st ex.s. c 220 § 2.]

Legislative finding, intent—1975 1st ex.s. c 220: "The legislature finds that the use of centerlines of public streets, roads and highways as boundaries of incorporated cities and towns has resulted in divided jurisdiction over such public ways causing inefficiencies and waste in their construction, improvement and maintenance and impairing effective traffic law enforcement. It is the intent of *this act to preclude the use of highway centerlines as corporate boundaries in the future and to encourage counties and cities and towns by agreement to revise existing highway centerline boundaries to coincide with highway right of way lines." [1975 1st ex.s. c 220 § 1.]

***Revisers note:** "this act" [1975 1st ex.s. c 220] consists of RCW 35.02.170, 35.21.790, 35A.03.180, 35A.21.210 and amendments by 1975 1st ex.s. c 220 to RCW 35.02.070, 35.03.030, 35.04.060, 35.13.015, 35.13.030, 35.13.130, 35.13.150, 35A.03.070, 35A.04.070, 35A.14.015, 35A.14.050, 35A.14.140 and 36.93.150.

Revision of centerline boundaries by substituting right of way lines: RCW 35.21.790.

Chapter 35.03

INCORPORATION OF FIRST CLASS CITIES

Sections

35.03.030 Resolution—Election—Conduct of election.

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, subject to RCW 35.02.170, 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. [1975 1st ex.s. c 220 § 4; 1969 ex.s. c 270 § 3; 1965 c 7 § 35.03-.030. Prior: 1951 c 153 § 2, part.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Conduct of elections: RCW 29.13.040.

Election of freeholders to frame charter: State Constitution Art. 11 § 10 (Amendment 40), RCW 35.22.050.

Chapter 35.04

INCORPORATION OF INTERCOUNTY AREAS

Sections

35.04.060 Petition for incorporation—Hearing—Inclusion and exclusion of lands—Order.

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, subject to RCW 35.02.170, 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. [1975 1st ex.s. c 220 § 5; 1965 c 7 § 35.04.060. Prior: 1963 c 57 § 4; 1955 c 345 § 6.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Chapter 35.13

ANNEXATION OF UNINCORPORATED AREAS

Sections

35.13.015	Election method—Resolution for election—Contents of resolution.
35.13.030	Election method—Petition for election—Content.
35.13.130	Petition method—Petition—Signers—Content.
35.13.150	Petition method—Ordinance providing for annexation.
35.13.260	Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate.

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, subject to RCW 35.02.170, 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. [1975 1st ex.s. c 220 § 6; 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.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Community municipal corporations: Chapter 35.14 RCW.

35.13.030 Election method—Petition for election—Content. A petition filed with the county commissioners to call an annexation election shall, subject to RCW 35.02.170, 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. [1975 1st ex.s. c 220 § 7; 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.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

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 which is in compliance with RCW 35.02.170, 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. [1975 1st ex.s. c 220 § 8; 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.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Severability—1971 c 69: See note following RCW 35.13.125.

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. Subject to RCW 35.02.170, 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. [1975 1st ex.s. c 220 § 9; 1965 c 7 § 35.13.150. Prior: 1957 c 239 § 5; prior: 1945 c 128 § 4, part; Rem. Supp. 1945 § 8908-13, part.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

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 office of program planning and fiscal management, hereinafter in this section referred to as "the office", within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office shall retain the original copy in its files, and transmit the second copy to the department of highways 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 office. A copy of the complete ordinance containing 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 office 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 office. 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 office in determining the population of such city or town.

Upon approval of the annexation certificate, the office 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 office 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. [1975 1st ex.s. c 31 § 1; 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.

Chapter 35.20 MUNICIPAL COURTS—CITIES OVER FIVE HUNDRED THOUSAND

Sections

35.20.010	Municipal court established.
35.20.205	Judicial officers—Hearing examiner.
35.20.900	Construction of prior law.

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 four 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. [1975 c 33 § 4; 1965 c 7 § 35.20.010. Prior: 1955 c 290 § 1.]

Severability—1975 c 33: See note following RCW 35.21.780.

35.20.205 Judicial officers—Hearing examiner. The judges of the municipal court may employ judicial officers to assist in the administration of justice and the accomplishment of the work of the court as said work may be assigned to it by statute or ordinance. The duties and responsibilities of such officers shall be judicial in nature and shall be fixed by court rule as adopted by the municipal court judges or fixed by ordinance of the city. The mayor may appoint the judicial officers as judges pro tempore pursuant to RCW 35.20.200: *Provided*, That the judicial officer need not be a resident of the city.

To utilize the services of such judicial officers for the purpose of hearing contested matters relating to the interest of the city and its citizens and the operation of the various departments of the city, the city may by ordinance create the office of hearing examiner in the municipal court and assign to it judicial duties and responsibilities. [1975 1st ex.s. c 214 § 1.]

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 four hundred thousand inhabitants. [1975 c 33 § 5; 1965 c 7 § 35.20.900. Prior: 1955 c 290 § 27.]

Severability—1975 c 33: See note following RCW 35.21.780.

Chapter 35.21

MISCELLANEOUS PROVISIONS AFFECTING ALL CITIES AND TOWNS

Sections

35.21.152	Solid waste—Collection and disposal—Processing and conversion into products—Sale.
35.21.154	Solid waste—Compliance with chapter 70.95 RCW required.
35.21.207	Liability insurance for officers and employees authorized.
35.21.766	Ambulance services—Establishment authorized.
35.21.768	Ambulance services—Excise taxes authorized—Use of proceeds.
35.21.780	Laws, rules and regulations applicable to cities 500,000 or over deemed applicable to cities 400,000 or over.
35.21.790	Centerlines of streets, roads or highways as corporate boundaries—Revision by substituting right of way lines.

35.21.152 Solid waste—Collection and disposal—Processing and conversion into products—Sale. A city or town may construct, condemn, purchase, acquire, add to, and extend systems and plants for the collection and disposal of solid waste and for its processing and conversion into other valuable or useful products with full jurisdiction and authority to manage, regulate, maintain, operate and control such systems and plants, and to enter into agreements providing for the maintenance and operation of systems and plants for the processing and conversion of solid waste and for the sale of said products under such terms and conditions as may be determined by the legislative authority of said city or town: *Provided however*, That no such

solid waste processing and conversion plant now in existence or hereafter constructed may be condemned: *Provided further*, That contracts relating to the processing and conversion of solid waste into valuable and useful products and the sale thereof shall take place only after receipt of competitive written offerings by such city or town subject to final approval by the legislative authority of such city or town; and be it further provided that, after the award of such processing, conversion or sale contract all competitive offerings and other documentary material considered in connection therewith shall become matters of public record.

Agreements relating to systems and plants for the processing and conversion of solid wastes to useful products and agreements relating to sale of such products shall be in compliance with RCW 35.21.120 and shall be entered into only after public advertisement and evaluation of competitive offerings. [1975 1st ex.s. c 208 § 1.]

35.21.154 Solid waste—Compliance with chapter 70.95 RCW required. Nothing in RCW 35.21.152 and 35.92.022 will relieve a city of its obligations to comply with the requirements of chapter 70.95 RCW. [1975 1st ex.s. c 208 § 3.]

35.21.207 Liability insurance for officers and employees authorized. See RCW 36.16.138.

35.21.766 Ambulance services—Establishment authorized. Whenever the legislative authority of any city or town determines that the city or town or a substantial portion of the city or town is not adequately served by existing private ambulance service, the legislative authority may by appropriate legislation provide for the establishment of a system of ambulance service to be operated as a public utility of the city or town or operated by contract after a call for bids. [1975 1st ex.s. c 24 § 1.]

Ambulance services by counties authorized: RCW 36.01.100.

35.21.768 Ambulance services—Excise taxes authorized—Use of proceeds. The legislative authority of any city or town is 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 the ambulance business. Such business and occupation tax shall be imposed in such amounts as fixed and determined by the legislative authority.

The excise taxes other than the business and occupation tax authorized by this section shall be levied and collected from all persons, businesses, and industries who are served and billed for said ambulance service owned and operated or contracted for by the city or town in such amounts as shall be fixed and determined by the legislative authority of the city or town.

All taxes authorized pursuant to this section shall be construed to 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 city or town shall appropriate and use the proceeds derived from all taxes authorized by this section only for the operation,

maintenance and capital needs of its municipally owned, operated, leased or contracted for ambulance service. [1975 1st ex.s. c 24 § 2.]

35.21.780 Laws, rules and regulations applicable to cities 500,000 or over deemed applicable to cities 400,000 or over. On and after June 12, 1975, every law and rule or regulation of the state or any agency thereof which immediately prior to June 12, 1975 related to cities of five hundred thousand population or over shall be deemed to be applicable to cities of four hundred thousand population or over. [1975 c 33 § 1.]

Severability—1975 c 33: "If any provision of this 1975 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." [1975 c 33 § 7.]

35.21.790 Centerlines of streets, roads or highways as corporate boundaries—Revision by substituting right of way lines. (1) The governing bodies of a county and any city or town located therein may by agreement revise any part of the corporate boundary of the city or town which coincides with the centerline of a public street, road or highway by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city or town.

(2) The revision of a corporate boundary as authorized by this section shall become effective when approved by ordinance of the city or town council or commission and by ordinance or resolution of the board of county commissioners or county council. [1975 1st ex.s. c 220 § 17.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Use of centerlines as boundaries in incorporation or annexation proceedings—Prohibition—Use of right of way lines: RCW 35.02.170.

**Chapter 35.22
FIRST CLASS CITIES**

Sections

- 35.22.284 Association of sheriffs and police chiefs.
- 35.22.620 Public works or improvements—Contracts required—Minimum cost amounts—Bids.
- 35.22.630 Public works or improvements—Cost amounts—How determined.
- 35.22.640 Public works or improvements—Electrical distribution and generating systems—Solid waste.
- 35.22.650 Public works or improvements—Minority business, employees—Contract, contents.

35.22.284 Association of sheriffs and police chiefs. See chapter 36.28A RCW.

35.22.620 Public works or improvements—Contracts required—Minimum cost amounts—Bids. Any public work or improvement of a first class city shall be done by contract pursuant to public notice and call for competitive bids, whenever the estimated cost of such work or improvement, including the cost of materials, supplies, and equipment will exceed the sum of ten thousand dollars: *Provided*, That whenever this

public work or improvement is for construction of water mains, such sum shall be fifteen thousand dollars. When any emergency shall require the immediate execution of such public work, upon the finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. [1975 1st ex.s. c 56 § 1.]

35.22.630 Public works or improvements—Cost amounts—How determined. The cost of any public work or improvement for the purposes of RCW 35.22.620 and 35.22.640 shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence: *Provided*, That the cost of water services and metering equipment furnished by any first class city in the course of a water service installation from the utility-owned main to and including the meter box assembly shall not be included as part of the aggregate cost as provided herein. The breaking down of any public work or improvement into units or accomplishing any public work or improvement by phases for the purpose of avoiding the minimum dollar amount prescribed in RCW 35.22.620 is contrary to public policy and is prohibited. [1975 1st ex.s. c 56 § 2.]

35.22.640 Public works or improvements—Electrical distribution and generating systems—Solid waste. Cities of the first class are relieved from complying with the provisions of RCW 35.22.620 with respect to any public work or improvement relating solely to electrical distribution and generating systems on public rights of way or on municipally owned property: *Provided*, That nothing herein shall prevent any first class city from operating a solid waste department utilizing its own personnel. [1975 1st ex.s. c 56 § 3.]

35.22.650 Public works or improvements—Minority business, employees—Contract, contents. All contracts by and between a first class city and contractors for any public work or improvement exceeding the sum of ten thousand dollars, or fifteen thousand dollars for construction of water mains, shall contain the following clause:

"Contractor agrees that he shall actively solicit the employment of minority group members. Contractor further agrees that he shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. Contractor shall furnish evidence of his compliance with these requirements of minority employment and solicitation. Contractor further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. The contractor shall be required to submit evidence of compliance with this section as part of the bid."

As used in this section, the term "minority business" means a business at least fifty-one percent of which is owned by minority group members. Minority group

members include, but are not limited to, blacks, women, native Americans, Orientals, Eskimos, Aleuts, and Spanish Americans. [1975 1st ex.s. c 56 § 4.]

Chapter 35.23 SECOND CLASS CITIES

Sections

35.23.134 Association of sheriffs and police chiefs.

35.23.134 Association of sheriffs and police chiefs.
See chapter 36.28A RCW.

Chapter 35.24 THIRD CLASS CITIES

Sections

35.24.164 Association of sheriffs and police chiefs.

35.24.164 Association of sheriffs and police chiefs.
See chapter 36.28A RCW.

Chapter 35.39 FISCAL—FINANCE COMMITTEE— INVESTMENT OF FUNDS

Sections

35.39.030 Excess or inactive funds—Investment.
35.39.034 Investment by individual fund or commingling of funds—Investment in United States securities.

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 district which are within the protection of the local improvement guaranty fund law; and
- (6) In any other investments authorized by law for any other taxing districts. [1975 1st ex.s. c 11 § 1; 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.

35.39.034 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, certificates of indebtedness, or interim financing warrants of a local improvement district which is within the protection of the local improvement guaranty fund law for the benefit of the general or current expense fund. [1975 1st ex.s. c 11 § 2; 1969 ex.s. c 33 § 3.]

Chapter 35.42 LEASES

Sections

LEASING OF SPACE WITH OPTION TO PURCHASE—1959 ACT

35.42.090 Leases exempted from certain taxes.

LEASING OF SPACE WITH OPTION TO PURCHASE—1959 ACT

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 28A.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 department of revenue issued pursuant thereto. [1975 1st ex.s. c 278 § 22; 1965 c 7 § 35.42.090. Prior: 1959 c 80 § 9.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 35.58 METROPOLITAN MUNICIPAL CORPORATIONS—PUBLIC TRANSPORTATION

Sections

35.58.200 Powers relative to water pollution abatement.
35.58.272 Public transportation systems—Definitions.
35.58.2721 Public transportation systems—Authority of municipalities to acquire, operate, etc.—Indebtedness—Bond issues.
35.58.273 Public transportation systems—Motor vehicle excise tax authorized—Credits—Public hearing on route and design.
35.58.2731 Repealed.
35.58.274 Public transportation systems—Motor vehicles exempt from tax.
35.58.275 Public transportation systems—Provisions of motor vehicle excise tax chapter applicable.
35.58.276 Public transportation systems—When tax due and payable—Collection.
35.58.277 Public transportation systems—Remittance of tax by county auditor.
35.58.278 Public transportation systems—Distribution of tax.
35.58.279 Public transportation systems—Crediting and use of tax revenues.
35.58.2791 Public transportation systems—Internal combustion equipment to comply with pollution control standards.
35.58.2792 Public transportation systems—Parking facilities to be in conjunction with system stations or transfer facilities.

- 35.58.2793 Repealed.
 35.58.2794 Public transportation systems—Research, testing, development, etc., of systems—Powers to comply with federal laws.

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 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 one year 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. [1975 c 36 § 1; 1974 ex.s. c 70 § 6; 1971 ex.s. c 303 § 7; 1965 c 7 § 35.58.200. Prior: 1957 c 213 § 20.]

35.58.272 Public transportation systems—Definitions. "Municipality" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, and in RCW 36.57.080, 36.57.100, 36.57.110, 35.58.2721, 35.58.2794, and chapter 36.57A RCW, means any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation; any county performing the public transportation function as authorized by RCW 36.57.100 and 36.57.110 or which has established a county transportation authority pursuant to chapter 36.57 RCW; any public transportation benefit area established pursuant to chapter 36.57A RCW; and any city,

which is not located within the boundaries of a metropolitan municipal corporation, county transportation authority, or public transportation benefit area, and which owns, operates or contracts for the services of a publicly owned or operated system of transportation: *Provided*, That the term "municipality" shall mean in respect to any county performing the public transportation function pursuant to RCW 36.57.100 and 36.57.110 only that portion of the unincorporated area lying wholly within such unincorporated transportation benefit area.

"Motor vehicle" as used in RCW 35.58.272 through 35.58.279, as now or hereafter amended, 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. [1975 1st ex.s. c 270 § 1; 1969 ex.s. c 255 § 7.]

Severability—1975 1st ex.s. c 270: "If any provision of this 1975 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." [1975 1st ex.s. c 270 § 30.]

Effective date—1975 1st ex.s. c 270: "This 1975 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 July 1, 1975." [1975 1st ex.s. c 270 § 31.]

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.]

Contracts between political subdivisions for services and use of public transportation systems: RCW 39.33.050.

35.58.2721 Public transportation systems—Authority of municipalities to acquire, operate, etc.—Indebtedness—Bond issues. In addition to any other authority now provided by law, and subject only to constitutional limitations, the governing body of any municipality shall be authorized to acquire, construct, operate, and maintain a public transportation system and additions and betterments thereto, and to issue general obligation bonds for public mass transportation capital purposes including but not limited to replacement of equipment: *Provided*, That the general indebtedness incurred under this section when considered together with all the other outstanding general indebtedness of the municipality shall not exceed the amounts of indebtedness authorized by chapter 39.36 RCW and chapter 35.58 RCW, as now or hereafter amended, to be incurred without and with the assent of the voters.

Upon July 1, 1975 any such municipality is authorized to pledge that the taxes authorized, levied and collected to pay or secure the payment of any bonds issued after July 1, 1975 for authorized public transportation

purposes shall continue to be levied, collected and applied until such bonds shall have been paid or sufficient funds for such payment shall have been duly provided and irrevocably set aside by the issuer for such payment. If any of the revenue from any tax or surcharge authorized by this or any other chapter shall have been pledged 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 the authority to levy and collect the tax. Any municipality is authorized to pledge for the payment or security of the principal of and interest on any bonds issued for authorized public transportation purposes all or any portion of any taxes authorized to be levied by the issuer, including, but not limited to, the local sales and use tax authorized pursuant to RCW 82.14.045 and *section 6 of this 1975 amendatory act, as now or hereafter amended, and not more than ten percent of the motor vehicle excise taxes levied and collected pursuant to RCW 35.58.273: *Provided*, That such ten percent limitation shall not apply to any bonds outstanding on July 1, 1975. [1975 1st ex.s. c 270 § 7.]

***Reviser's note:** "section 6 of this 1975 amendatory act" constituted the amendment to RCW 82.14.045 by 1975 1st ex.s. c 270 § 6.

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

35.58.273 Public transportation systems—Motor vehicle excise tax authorized—Credits—Public hearing on route and design. 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.]

Reviser's note: The purported amendment to this section to take effect June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

35.58.2731 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.58.274 Public transportation systems—Motor vehicles exempt from tax. 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.]

Reviser's note: The statute providing for the expiration of this section on June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

35.58.275 Public transportation systems—Provisions of motor vehicle excise tax chapter applicable. 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.]

Reviser's note: The statute providing for the expiration of this section on June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

35.58.276 Public transportation systems—When tax due and payable—Collection. 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.]

Reviser's note: The statute providing for the expiration of this section on June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

35.58.277 Public transportation systems—Remittance of tax by county auditor. 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.]

Reviser's note: The statute providing for the expiration of this section on June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

35.58.278 Public transportation systems—Distribution of tax. 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. [1975 1st ex.s. c 270 § 2; 1974 ex.s. c 54 § 1; 1969 ex.s. c 255 § 13.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Severability—Construction—Transitional sections—Effective dates—1974 ex.s. c 54: See notes following RCW 82.44.070.

35.58.279 Public transportation systems—Credit- ing and use of tax revenues. 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: (1) The purported amendment to this section to take effect June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

(2) "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.

35.58.2791 Public transportation systems—Internal combustion equipment to comply with pollution control standards. 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.]

Reviser's note: The purported amendment to this section to take effect June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

35.58.2792 Public transportation systems—Parking facilities to be in conjunction with system stations or transfer facilities. 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.]

Reviser's note: The purported amendment to this section to take effect June 30, 1981, was repealed by 1975 1st ex.s. c 270 § 28.

35.58.2793 Repealed. See Supplementary Table of Disposition of Former RCW Sections, this volume.

35.58.2794 Public transportation systems—Research, testing, development, etc., of systems—Powers to comply with federal laws. Any city, county, public transportation benefit area authority, county transportation authority, or metropolitan municipal corporation operating a public transportation system shall be authorized to conduct, contract for, participate in and support research, demonstration, testing and development of public transportation systems, equipment and use incentives and shall have all powers necessary to comply with any criteria, standards, and regulations which may be adopted under the urban mass transportation act (78 Stat. 302 et seq., 49 U.S.C. 1601 et seq.) and to take all actions necessary to meet the requirements of that act. Any county in which a county transportation authority or public transportation benefit area shall have been established and any metropolitan municipal corporation which shall have been authorized to perform the function of metropolitan public transportation shall have, in addition to such powers, the authority to prepare, adopt and carry out a comprehensive transit plan and to make such other plans and studies and to perform such programs as the governing body of the county authority public transportation benefit area authority or metropolitan municipal corporation shall deem necessary to implement and comply with said federal act. [1975 1st ex.s. c 270 § 8.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

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—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures.

35.77.010 Perpetual advanced plans for coordinated street program—Six year program for arterial street construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures. (1) 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.

(2) On and after July 1, 1976 each six year program forwarded to the director in compliance with subsection (1) of this section shall contain information as to how a city or town will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycle, pedestrian, and equestrian purposes. [1975 1st ex.s. c 215 § 1; 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.

Chapter 35.81 URBAN RENEWAL LAW

Sections

35.81.010 Definitions.

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 or the board of commissioners of any county.

(8) "Municipality" shall mean any incorporated city or town, or any 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. [1975 c 3 § 1; 1971 ex.s. c 177 § 6; 1965 c 7 § 35.81.010. Prior: 1957 c 42 § 1.]

Chapter 35.86

OFF-STREET PARKING FACILITIES

Sections

- 35.86.010 Space and facilities authorized.
35.86.040 Operation—Leasing.

35.86.010 Space and facilities authorized. Cities of the first, second, and third classes are authorized to provide off-street parking space and facilities located on land dedicated for park or civic center purposes, or on other municipally-owned land where the primary purpose of such off-street parking facility is to provide parking for persons who use such park or civic center facilities. In addition a city may own other off-street parking facilities and operate them in accordance with RCW 35.86A.120. [1975 1st ex.s. c 221 § 1; 1967 ex.s. c 144 § 13; 1965 c 7 § 35.86.010. Prior: 1961 c 186 § 1; 1959 c 302 § 1.]

Severability—1975 1st ex.s. c 221: "If any provision of this 1975 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." [1975 1st ex.s. c 221 § 5.]

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.

35.86.040 Operation—Leasing. 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. [1975 1st ex.s. c 221 § 2; 1969 ex.s. c 204 § 13; 1965 c 7 § 35.86.040. Prior: 1959 c 302 § 4.]

Severability—1975 1st ex.s. c 221: See note following RCW 35.86.010.

Severability—1969 ex.s. c 204: See note following RCW 35.86A.010.

Chapter 35.86A

OFF-STREET PARKING—PARKING COMMISSIONS

Sections

- 35.86A.070 Powers and authority of parking commission.
35.86A.120 Operation of parking facilities by cities prohibited—
Exceptions—Bid requirements and procedure.

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 off-street parking facilities located on land dedicated for park or civic center purposes, or on other municipally-owned land where the primary purpose of such off-street parking facility is to provide parking for persons who use such park or civic center facilities, and undertake research, and prepare plans incidental thereto subject to applicable statutes and charter provisions for municipal purchases, expenditures, and improvements; and in addition may own other off-street parking facilities and operate them in accordance with RCW 35.86A.120: *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. [1975 1st ex.s. c 221 § 3; 1969 ex.s. c 204 § 7.]

Severability—1975 1st ex.s. c 221: See note following RCW 35.86.010.

35.86A.120 Operation of parking facilities by cities prohibited—Exceptions—Bid requirements and procedure. Except for off-street park and civic center parking facilities, as provided in RCW 35.86.010 and 35.86A.070, 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 and 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 of 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. [1975 1st ex.s. c 221 § 4; 1969 ex.s. c 204 § 12.]

Severability—1975 1st ex.s. c 221: See note following RCW 35.86.010.

Chapter 35.92 MUNICIPAL UTILITIES

Sections	
35.92.022	Solid waste—Collection and disposal—Processing and conversion into products—Sale.
35.92.023	Solid waste—Compliance with chapter 70.95 RCW required.

35.92.022 Solid waste—Collection and disposal—Processing and conversion into products—Sale. A city or town may construct, condemn, purchase, acquire, add to, and extend systems and plants for the collection and disposal of solid waste and for its processing and conversion into other valuable or useful products with full jurisdiction and authority to manage, regulate, maintain, operate and control such systems and plants, and to enter into agreements providing for the maintenance and operation of systems and plants for the processing and conversion of solid waste and for the sale of said products under such terms and conditions as may be determined by the legislative authority of said city or town: *Provided however,* That no such solid waste processing and conversion plant now in existence or hereafter constructed may be condemned: *Provided further,* That contracts relating to the processing and conversion of solid waste into valuable and useful products and the sale thereof shall take place only after receipt of competitive written offerings by such city or town subject to final approval by the legislative authority of such city or town: *And be it further provided,* That after the award of such processing, conversion or sale contract all competitive offerings and other documentary material considered in connection therewith shall become matters of public record.

Agreements relating to systems and plants for the processing and conversion of solid wastes to useful products and agreements relating to sale of such products shall be in compliance with RCW 35.21.120 and shall be entered into only after public advertisement and evaluation of competitive offerings. [1975 1st ex.s. c 208 § 2.]

35.92.023 Solid waste—Compliance with chapter 70.95 RCW required. See RCW 35.21.154.

Chapter 35.95 PUBLIC TRANSPORTATION SYSTEMS IN CITIES AND METROPOLITAN MUNICIPAL CORPORATIONS—FINANCING

Sections	
35.95.020	Definitions.
35.95.040	Levy and collection of excise taxes authorized—Business and occupation tax—Excise tax on residents—Appropriation and use of proceeds—Voter approval.

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, town, county pursuant to RCW 36.57.100 and 36.57.110, any county transportation authority created pursuant to chapter 36.57 RCW, any public transportation benefit area created pursuant to chapter 36.57A RCW, or any metropolitan municipal corporation created pursuant to RCW 35.58.010, et seq: *Provided*, That the term "municipality" shall mean in respect to any county performing the public transportation function pursuant to RCW 36.57.100 and 36.57.110 only that portion of the unincorporated area lying wholly within such unincorporated transportation benefit area.

(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. [1975 1st ex.s. c 270 § 3; 1969 ex.s. c 255 § 2; 1967 ex.s. c 145 § 65; 1965 ex.s. c 111 § 2.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Severability—Construction—1969 ex.s. c 255: See notes following RCW 35.58.272.

35.95.040 Levy and collection of excise taxes authorized—Business and occupation tax—Excise tax on residents—Appropriation and use of proceeds—Voter approval. 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 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.

Before any county transportation authority established pursuant to chapter 36.57 RCW or any public transportation benefit area authority established pursuant to chapter 36.57A RCW may impose any of the excise taxes authorized pursuant to this section, the authorization for imposition of such taxes shall be approved by the voters residing within such respective area.

The county on behalf of an unincorporated transportation benefit area established pursuant to RCW 36.57.100 and 36.57.110 may impose any of the excise taxes authorized pursuant to this section only within the boundaries of such unincorporated transportation benefit area. [1975 1st ex.s. c 270 § 4; 1965 ex. s. c 111 § 4.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Title 35A OPTIONAL MUNICIPAL CODE

Chapters

35A.03 Incorporation as noncharter code city.

35A.04 Incorporation of intercounty area as a noncharter code city.

35A.13 Council-manager plan of government.

35A.14 Annexation by code cities.

35A.21 Provisions affecting all code cities.

Chapter 35A.03 INCORPORATION AS NONCHARTER CODE CITY

Sections

- 35A.03.070 Findings by board of county commissioners—Factors considered—Establishment of boundaries—Limitation.
- 35A.03.180 Centerlines of streets, roads or highways as corporate boundaries—Prohibition—Use of right of way lines.

35A.03.070 Findings by board of county commissioners—Factors considered—Establishment of boundaries—Limitation. Within five days after the final hearing on a petition for incorporation the board shall, subject to RCW 35A.03.180, establish and define the boundaries of the proposed noncharter code city, being authorized to decrease, but not increase, the area proposed in the petition when it appears to the board that a change in the boundaries set by the petition would be in the best interests of all the inhabitants of the proposed area, based on the considerations set forth in RCW 35A.03.060. Any such decrease shall not exceed twenty percent of the area proposed. The board must

also determine the number of inhabitants within the boundaries so established: *Provided*, That the area shall not be so decreased that the number of inhabitants therein shall be less than required by RCW 35A.03.010 as now or hereafter amended. [1975 1st ex.s. c 220 § 12; 1967 ex.s. c 119 § 35A.03.070.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

35A.03.180 Centerlines of streets, roads or highways as corporate boundaries—Prohibition—Use of right of way lines. After September 8, 1975, centerlines of public streets, roads or highways shall not be used to define any part of a boundary of a city or town in an incorporation or annexation proceeding. The right of way line of any public street, road or highway, or any segment thereof, may be used to define a part of a corporate boundary in an incorporation or annexation proceeding. [1975 1st ex.s. c 220 § 11.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Centerlines of streets, roads or highways as corporate boundaries—Revision by substituting right of way lines: RCW 35A.21.210.

Chapter 35A.04

INCORPORATION OF INTERCOUNTY AREA AS A NONCHARTER CODE CITY

Sections

35A.04.070 Establishment of boundaries—Limitation—Order.

35A.04.070 Establishment of boundaries—Limitation—Order. If upon final hearing the respective boards find that any land within their respective counties has been unjustly or improperly included within or excluded from the proposed corporation, based on the considerations stated in RCW 35A.04.060, 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: *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, the area shall not be so decreased that the number of inhabitants therein shall be less than five 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 a number of qualified voters resident within each area to be included in the proposed corporation equal in number to not less than twenty percent of the votes cast in that area at the last state election. Within five days after the final hearing each board of county commissioners shall, for the area within its respective county, by order establish and define the boundaries of the proposed corporation consistent with RCW 35A.03.180, determine the number of inhabitants residing therein and affirm 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. [1975 1st ex.s. c 220 § 13; 1967 ex.s. c 119 § 35A.04.070.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Chapter 35A.13

COUNCIL-MANAGER PLAN OF GOVERNMENT

Sections

- 35A.13.020 Election of councilmen—Eligibility—Terms—Vacancies—Forfeiture of office—Council chairman.
- 35A.13.030 Mayor—Election—Chairman to be mayor—Duties.
- 35A.13.033 Election on proposition to designate person elected to position one as chairman—Subsequent holders of position one to be chairman.

35A.13.020 Election of councilmen—Eligibility—Terms—Vacancies—Forfeiture of office—Council chairman. In council-manager code cities, eligibility for election to the council, the manner of electing councilmen, the numbering of council positions, the terms of councilmen, the occurrence and the filling of vacancies, the grounds for forfeiture of office, and appointment of a mayor pro tempore or deputy mayor or councilman pro tempore shall be governed by the corresponding provisions of RCW 35A.12.030, 35A.12.040, 35A.12.050, 35A.12.060, and 35A.12.065 relating to the council of a code city organized under the mayor-council plan: *Provided*, That in council-manager cities where all council positions are at-large positions, the city council may, pursuant to RCW 35A.13.033, provide that the person elected to council position one on or after September 8, 1975, shall be the council chairman and shall carry out the duties prescribed by RCW 35A.13.030, as now or hereafter amended. [1975 1st ex.s. c 155 § 1; 1967 ex.s. c 119 § 35A.13.020.]

35A.13.030 Mayor—Election—Chairman to be mayor—Duties. Biennially at the first meeting of the new council the members thereof shall choose a chairman from among their number unless the chairman is elected pursuant to RCW 35A.13.033. The chairman of the council shall have the title of mayor and shall preside at meetings of the council. 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. The mayor shall be recognized as the head of the city for 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 ordinance, shall take command of the police, maintain law, and enforce order. [1975 1st ex.s. c 155 § 2; 1967 ex.s. c 119 § 35A.13.030.]

35A.13.033 Election on proposition to designate person elected to position one as chairman—Subsequent holders of position one to be chairman. The city council of a council-manager city may by resolution place before the voters of the city, a proposition to designate the

person elected to council position one as the chairman of the council with the powers and duties set forth in RCW 35A.13.030. If a majority of those voting on the proposition cast a positive vote, then at all subsequent general elections at which position one is on the ballot, the person who is elected to position one shall become the chairman upon taking office. [1975 1st ex.s. c 155 § 3.]

Chapter 35A.14 ANNEXATION BY CODE CITIES

Sections

- 35A.14.015 Election method—Resolution for election—Contents of resolution.
- 35A.14.050 Decision of the county annexation review board—Filing—Date for election.
- 35A.14.140 Direct petition method—Ordinance providing for annexation.
- 35A.14.700 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate.

35A.14.015 Election method—Resolution for election—Contents of resolution. When the legislative body of a charter code city or noncharter code city shall determine that the best interests and general welfare of such city would be served by the annexation of unincorporated territory contiguous to such city, such legislative body may, by resolution, call for an election to be held to submit to the voters of such territory the proposal for annexation. The resolution shall, subject to RCW 35A.03.180, describe the boundaries of the area to be annexed, state the number of voters residing therein as nearly as may be, and shall provide that said city 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 is assessed and taxed to pay for any then outstanding indebtedness of the city to which said area is annexed, contracted prior to, or existing at, the date of annexation. Whenever such city has prepared and filed a proposed zoning regulation for the area to be annexed as provided for in RCW 35A.14.330 and 35A.14.340, the resolution initiating the election may also provide for the simultaneous adoption of the proposed zoning regulation upon approval of annexation by the electorate of the area to be annexed. A certified copy of the resolution shall be filed with the board of county commissioners of the county in which said territory is located. A certified copy of the resolution shall be filed with the boundary review board as provided for in chapter 189, Laws of 1967 [chapter 36.93 RCW] or the county annexation review board established by RCW 35A.14.200, unless such annexation proposal is within the provisions of RCW 35A.14.220. [1975 1st ex.s. c 220 § 14; 1971 ex.s. c 251 § 10; 1967 ex.s. c 119 § 35A.14.015.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.050 Decision of the county annexation review board—Filing—Date for election. After consideration of the proposed annexation as provided in RCW 35A.14.200, the county annexation review board, within thirty days after the final day of hearing, shall take one of the following actions:

(1) Approval of the proposal as submitted.

(2) Subject to RCW 35A.03.180, modification of the proposal by adjusting boundaries to include or exclude territory; except that any such inclusion of territory shall not increase the total area of territory proposed for annexation by an amount exceeding the original proposal by more than five percent: *Provided*, That the county annexation review board shall not adjust boundaries to include territory not included in the original proposal without first affording to residents and property owners of the area affected by such adjustment of boundaries an opportunity to be heard as to the proposal.

(3) Disapproval of the proposal.

The written decision of the county annexation review board shall be filed with the board of county commissioners and with the legislative body of the city concerned. If the annexation proposal is modified by the county annexation review board, such modification shall be fully set forth in the written decision. If the decision of the boundary review board or the county annexation review board is favorable to the annexation proposal, or the proposal as modified by the review board, the board of county commissioners, at its next regular meeting if to be held within thirty days after receipt of the decision of the boundary review board or the county annexation review board, or at a special meeting to be held within that period, shall set a date for submission of such annexation proposal, with any modifications made by the review board, to the voters of the territory proposed to be annexed. The question shall be submitted at a general election if one is to be held within ninety days, or at a special election called for that purpose not less than forty-five days nor more than ninety days after the filing of the decision of the review board with the board of county commissioners. If the boundary review board or the county annexation review board disapproves the annexation proposal, no further action shall be taken thereon, and no proposal for annexation of the same territory, or substantially the same as determined by the board, shall be initiated or considered for twelve months thereafter. [1975 1st ex.s. c 220 § 15; 1971 ex.s. c 251 § 7; 1967 ex.s. c 119 § 35A.14.050.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Severability—1971 ex.s. c 251: RCW 35A.90.050.

35A.14.140 Direct petition method—Ordinance providing for annexation. Following the hearing, if the legislative body determines to effect the annexation, they shall do so by ordinance. Subject to RCW 35A.03.180, the ordinance 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 annexation ordinance a certified copy shall

be filed with the board of county commissioners of the county in which the annexed property is located. [1975 1st ex.s. c 220 § 16; 1967 ex.s. c 119 § 35A.14.140.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

35A.14.700 Determining population of annexed territory—Certificate—As basis for allocation of state funds—Revised certificate. Whenever any territory is annexed to a code city, a certificate as hereinafter provided shall be submitted in triplicate to the office of program planning and fiscal management, hereinafter in this section referred to as "the office", within thirty days of the effective date of annexation specified in the relevant ordinance. After approval of the certificate, the office shall retain the original copy in its files, and transmit the second copy to the department of highways and return the third copy to the code city. Such certificates shall be in such form and contain such information as shall be prescribed by the office. A copy of the complete ordinance containing 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 office shall furnish certification forms to any code city.

Upon approval of the annexation certificate, the office 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 office 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.

The resident population of the annexed territory shall be determined by, or under the direction of, the mayor of the code city. 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 office. 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 office in determining the population of such code city. [1975 1st ex.s. c 31 § 2; 1967 ex.s. c 119 § 35A.14.700.]

Chapter 35A.21

PROVISIONS AFFECTING ALL CODE CITIES

Sections

35A.21.210 Centerlines of streets, roads or highways as corporate boundaries—Revision by substituting right of way lines.

35A.21.210 Centerlines of streets, roads or highways as corporate boundaries—Revision by substituting right of way lines. (1) The governing bodies of a county and any city or town located therein may by agreement revise any part of the corporate boundary of the city or town which coincides with the centerline of a public street, road or highway by substituting therefor a right of way line of the same public street, road or highway so as fully to include or fully to exclude that segment of the public street, road or highway from the corporate limits of the city or town.

(2) The revision of a corporate boundary as authorized by this section shall become effective when approved by ordinance of the city or town council or commission and by ordinance or resolution of the board of county commissioners or county council. [1975 1st ex.s. c 220 § 18.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Use of centerlines as boundaries in incorporation or annexation proceedings—Prohibition—Use of right of way lines: RCW 35A.03.180.

Title 36 COUNTIES

Chapters

- 36.01** General provisions.
- 36.16** County officers—General.
- 36.17** Salaries of county officers.
- 36.18** Fees of county officers.
- 36.21** County assessor.
- 36.22** County auditor.
- 36.27** Prosecuting attorney.
- 36.28A** Association of sheriffs and police chiefs.
- 36.32** County commissioners.
- 36.38** Admissions tax.
- 36.40** Budget.
- 36.54** Ferries—County owned—Ferry districts.
- 36.57** County public transportation authority.
- 36.57A** Public transportation benefit areas.
- 36.67** Limitation of indebtedness—County bonds.
- 36.75** Roads and bridges—General provisions.
- 36.78** Roads and bridges—County road administration board.
- 36.81** Roads and bridges—Establishment.
- 36.87** Roads and bridges—Vacation.
- 36.93** Local governmental organization—Boundaries—Review boards.
- 36.94** Sewerage, water and drainage systems.
- 36.95** Television reception improvement districts.

Chapter 36.01
GENERAL PROVISIONS

Sections

36.01.095 Emergency medical services—Authorized—Fees.

36.01.095 Emergency medical services—Authorized—Fees. Any county may establish a system of emergency medical service as defined by RCW 18.73.030(11). The county legislative authority may adopt by resolution procedures to collect reasonable fees in order to reimburse the county in whole or in part for its costs of providing such service: *Provided*, That any county which provides emergency medical services supported by an excess levy may waive such charges for service: *Provided further*, That whenever the county legislative authority determines that the county or a substantial portion of the county is not adequately served by existing private ambulance service, and existing private ambulance service cannot be encouraged to expand service on a contract basis, the emergency medical service that is established by the county shall not be deemed to compete with any existing private ambulance service as provided for in RCW 36.01.100. [1975 1st ex.s. c 147 § 1.]

Chapter 36.16
COUNTY OFFICERS—GENERAL

Sections

36.16.138 Liability insurance for officers and employees of municipal corporations and political subdivisions authorized.

36.16.138 Liability insurance for officers and employees of municipal corporations and political subdivisions authorized. Any board of commissioners, council, or board of directors or other governing board of any county, city, town, school district, port district, public utility district, sewer district, water district, irrigation district, or other municipal corporation or political subdivision is authorized to purchase insurance to protect and hold personally harmless any of its commissioners, council members, directors, or other governing board members, and any of its other officers, employees, and agents from any action, claim, or proceeding instituted against the foregoing individuals arising out of the performance, purported performance, or failure of performance, in good faith of duties for, or employment with, such institutions and to hold these individuals harmless from any expenses connected with the defense, settlement, or monetary judgments from such actions, claims, or proceedings. The purchase of such insurance for any of the foregoing individuals and the policy limits shall be discretionary with the municipal corporation or political subdivision, and such insurance shall not be considered to be compensation for these individuals.

The provisions of this section are cumulative and in addition to any other provision of law authorizing any municipal corporation or political subdivision to purchase liability insurance. [1975 c 16 § 1.]

Liability insurance for officers and employees authorized: RCW 28A-.58.423, 28B.10.660, 35.21.205, 52.08.090, 53.08.205, 54.16.095, 56-.08.105, 57.08.105 and 87.03.162.

Chapter 36.17
SALARIES OF COUNTY OFFICERS

Sections

36.17.055 Salary adjustment for county legislative authority of office—Ratification and validation of preelection action.

36.17.055 Salary adjustment for county legislative authority office—Ratification and validation of preelection action. See RCW 36.40.205.

Chapter 36.18
FEEES OF COUNTY OFFICERS

Sections

36.18.020 Clerk's fees.
36.18.040 Sheriff's fees.

36.18.020 Clerk's fees. Clerks of superior courts shall collect the following fees for their official services:

(1) The party filing the first or initial paper in any civil action, including an action for restitution, or change of name, shall pay, at the time said paper is filed, a fee of thirty-two dollars.

(2) Any party filing the first or initial paper on an appeal from justice court or on any civil appeal, shall pay, when said paper is filed, a fee of thirty-two dollars.

(3) The party filing a transcript or abstract of judgment or verdict from a United States court held in this state, or from the superior court of another county or from a justice court in the county of issuance, shall pay at the time of filing, a fee of five dollars.

(4) For the filing of a tax warrant by the department of revenue of the state of Washington, a fee of five dollars shall be paid.

(5) The party filing a demand for jury of six in a civil action, shall pay, at the time of filing, a fee of twenty-five dollars; if the demand is for a jury of twelve the fee shall be fifty dollars. If, after the party files a demand for a jury of six and pays the required fee, any other party to the action requests a jury of twelve, an additional twenty-five dollar fee will be required of the party demanding the increased number of jurors.

(6) For filing any paper, not related to or a part of any proceeding, civil or criminal, or any probate matter, required or permitted to be filed in his office for which no other charge is provided by law, the clerk shall collect two dollars.

(7) For preparing, transcribing or certifying any instrument on file or of record in his office, with or without seal, for the first page or portion thereof, a fee of two dollars, and for each additional page or portion thereof, a fee of one dollar. For authenticating or exemplifying any instrument, a fee of one dollar for each additional seal affixed.

(8) For executing a certificate, with or without a seal, a fee of two dollars shall be charged.

(9) For the filing of an affidavit for garnishment, a fee of five dollars shall be charged.

(10) For approving a bond, including justification thereon, in other than civil actions and probate proceedings, a fee of two dollars shall be charged.

(11) In probate proceedings, the party instituting such proceedings, shall pay at the time of filing the first paper therein, a fee of thirty-two dollars: *Provided, however,* A fee of two dollars shall be charged for filing a will only, when no probate of the will is contemplated.

(12) For filing any petition to contest a will admitted to probate or a petition to admit a will which has been rejected, there shall be paid a fee of thirty-two dollars.

(13) For the issuance of each certificate of qualification and each certified copy of letters of administration, letters testamentary or letters of guardianship there shall be a fee of two dollars.

(14) For the preparation of a passport application there shall be a fee of three dollars.

(15) Upon conviction or plea of guilty or upon failure to prosecute his appeal from a lower court as provided by law, a defendant in a criminal case shall be liable for a fee of thirty-two dollars.

(16) With the exception of demands for jury hereafter made and garnishments hereafter issued, civil actions and probate proceedings filed prior to midnight, July 1, 1972, shall be completed and governed by the fee schedule in effect as of January 1, 1972: *Provided,* That no fee shall be assessed if an order of dismissal on the clerk's record be filed as provided by rule of the supreme court.

(17) No fee shall be collected when a petition for relinquishment of parental rights is filed pursuant to RCW 26.36.010. [1975 c 30 § 1; 1973 c 16 § 1; 1973 c 38 § 1. Prior: 1972 ex.s. c 57 § 5; 1972 ex.s. c 20 § 1; 1970 ex.s. c 32 § 1; 1967 c 26 § 9; 1963 c 4 § 36.18.020; prior: 1961 c 304 § 1; 1961 c 41 § 1; 1951 c 51 § 5; 1907 c 56 § 1, part, p 89; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, part, p 421; Code 1881 § 2086, part, p 355; 1869 p 364 § 1, part; 1863 p 391 § 1, part; 1861 p 34 § 1, part; 1854 p 368 § 1, part; RRS § 497, part.]

Effective date—1972 ex.s. c 20: "This act shall take effect July 1, 1972." [1972 ex.s. c 20 § 3.]

36.18.040 Sheriff's fees. Sheriffs shall collect the following fees for their official services: For service of each summons and complaint, and return thereon, on each defendant, besides mileage, three dollars;

For making a return of "not found" in the county upon a summons, besides mileage actually traveled, two dollars;

For levying each writ of attachment or writ of execution upon real or personal property, besides mileage, four dollars and fifty cents;

For filing copy of writ of attachment or writ of execution with auditor, three dollars plus auditor's filing fee;

For chattel mortgage foreclosure (short form), levy four dollars and fifty cents; posting notice, two dollars; service of notice, three dollars;

For serving writ of possession or restitution without aid of the county, besides mileage, four dollars and fifty cents;

For serving writ of possession or restitution with aid of the county, besides mileage, seven dollars and fifty cents;

For service and return of subpoena, upon each person served, besides mileage, one dollar and fifty cents;

For summoning each juror, besides mileage, one dollar and fifty cents;

For serving an arrest warrant in any action or proceeding, besides mileage, six dollars;

For serving or executing any other writ or process in a civil action or proceeding, besides mileage, three dollars and fifty cents;

For taking and approving any bond, in a civil action or proceeding, required by law to be taken or approved by him, except indemnity bonds, three dollars and fifty cents;

For each mile actually and necessarily traveled by him in going to or returning from any place of service, or attempted service, fifteen cents;

For making a deed to lands sold upon execution or order of sale or other decree of court, to be paid by the purchaser, nine dollars;

For making copies of papers when sufficient copies are not furnished, one dollar for first page and fifty cents per each additional page;

For the service of any process for which no other fee is provided for herein, three dollars and fifty cents;

For the making of any return for which no other fee is provided herein, three dollars and fifty cents;

For the execution of any process for which no other fee is provided herein, six dollars;

For the service of affidavit and bond in replevin, three dollars and fifty cents for each defendant; approval of bond, three dollars and fifty cents; taking property, three dollars and fifty cents;

For posting notices of sale, or postponement, three dollars and fifty cents besides mileage;

For certificate of sale of real property, seven dollars and fifty cents;

For serving notice of redemption, three dollars and fifty cents; certificate of redemption, seven dollars and fifty cents;

For making a return of no property found, two dollars;

For estray sales, crying sale, three dollars and fifty cents, besides mileage;

For conducting sale of personal property pursuant to exemption [execution] or order of sale, five dollars. [1975 1st ex.s. c 94 § 1; 1963 c 4 § 36.18.040. Prior: 1959 c 263 § 8; 1951 c 51 § 6; 1907 c 56 § 1, part, p 91; 1903 c 151 § 1, part, p 294; 1893 c 130 § 1, p 422; Code 1881 § 2086, part, p 356; 1869 p 364 § 1, part, p 365; 1865 p 94 § 1, part, p 97; 1863 p 391 § 1, part, p 392; 1861 p 34 § 1, part, p 35; 1854 p 368 § 1, part, p 369; RRS § 497, part.]

Chapter 36.21 COUNTY ASSESSOR

Sections

36.21.080 New construction building permits—When property placed on assessment rolls—Destroyed property, reduction in value.

36.21.080 New construction building permits—When property placed on assessment rolls—Destroyed property, reduction in value. (1) The county assessor is authorized to place any property under the provisions of RCW 36.21.040 through 36.21.080 on the assessment rolls for the purposes of tax levy up to May 31st of each year. The assessed valuation of property under the provisions of RCW 36.21.040 through 36.21.080 shall be considered as of the April 30th immediately preceding the date that the property is placed on the assessment rolls.

(2) If, on or before December 31 in any calendar year, any real or personal property placed upon the assessment roll of that year is destroyed in whole or in part, the true cash value of such property shall be reduced for that year by an amount determined as follows:

(a) First take the true cash value of such taxable property and deduct therefrom the true cash value of the remaining property.

(b) Then divide any amount remaining by twelve and multiply the quotient by the number of months or major fraction thereof remaining after the date of the destruction of the property. [1975 1st ex.s. c 120 § 1; 1974 ex.s. c 196 § 7; 1963 c 4 § 36.21.080. Prior: 1955 c 129 § 5.]

Severability—1974 ex.s. c 196: See note following RCW 84.56.020.

Destroyed property, reduction in value, abatement or refund of taxes: Chapter 84.70 RCW.

Chapter 36.22 COUNTY AUDITOR

Sections

36.22.050 Issuance of warrants—Multiple warrants.
36.22.090 Warrants of political subdivisions.

36.22.050 Issuance of warrants—Multiple warrants. For claims allowed by the county commissioners, and also for cost bills and other lawful claims duly approved by the competent tribunal designated by law for their allowance, he shall draw a warrant on the county treasurer, made payable to the claimant or his order, bearing date from the time of and regularly numbered in the order of their issue. If there is not sufficient cash in the county treasury to cover such claims or cost bills, or if a claimant requests, the auditor may issue a number of smaller warrants, the total principal amounts of which shall equal the amount of said claim or cost bill. [1975 c 31 § 1; 1969 ex.s. c 87 § 1; 1963 c 4 § 36.22.050. Prior: (i) 1893 c 119 § 1, part; Code 1881 § 2710, part; 1869 p 310 § 5, part; 1863 p 549 § 5, part; 1854 p 425 § 5, part; RRS § 4086, part. (ii) 1893 c 48 § 2; RRS § 4087.]

36.22.090 Warrants of political subdivisions. All warrants for the payment of claims against diking, ditch, drainage and irrigation districts and school districts of the second class, who do not issue their own warrants, as well as political subdivisions within the county for which no other provision is made by law, shall be drawn and issued by the county auditor of the county

wherein such subdivision is located upon vouchers properly approved by the governing body thereof. [1975 c 43 § 31; 1973 c 111 § 4; 1963 c 4 § 36.22.090. Prior: 1915 c 74 § 1; RRS § 4096.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1973 c 111: See note following RCW 28A.60.328.

Chapter 36.27 PROSECUTING ATTORNEY

Sections

36.27.020 Duties.
36.27.040 Appointment of deputies—Special and temporary deputies.

36.27.020 Duties. The prosecuting attorney shall:

(1) Be legal adviser of the board of county commissioners, giving them his written opinion when required by the board or the chairman thereof touching any subject which the board may be called or required to act upon relating to the management of county affairs;

(2) Be legal adviser to all county and precinct officers and school directors in all matters relating to their official business, and when required he shall draw up all instruments of an official nature for the use of said officers;

(3) Appear for and represent the state, county, and all school districts subject to the supervisory control and direction of the attorney general in all criminal and civil proceedings in which the state or his county or any school district in his county may be a party;

(4) Prosecute all criminal and civil actions in which the state or his county may be a party, defend all suits brought against the state or his county, and prosecute actions upon forfeited recognizances and bonds and actions for the recovery of debts, fines, penalties, and forfeitures accruing to the state or his county;

(5) Attend and appear before and give advice to the grand jury when cases are presented to it for consideration and draw all indictments when required by the grand jury;

(6) Institute and prosecute proceedings before magistrates for the arrest of persons charged with or reasonably suspected of felonies when he has information that any such offense has been committed and he shall for that purpose attend when required by them if he is not then in attendance upon the superior court;

(7) Carefully tax all cost bills in criminal cases and take care that no useless witness fees are taxed as part of the costs and that the officers authorized to execute process tax no other or greater fees than the fees allowed by law;

(8) Receive all cost bills in criminal cases before justices of the peace at the trial of which he was not present, before they are lodged with the board of county commissioners for payment, whereupon he may retax the same and he must do so if the board of county commissioners deems any bill exorbitant or improperly taxed;

(9) Present all violations of the election laws which may come to his knowledge to the special consideration of the proper jury;

(10) Examine at least once in each year the public records and books of the auditor, assessor, treasurer, superintendent of schools, and sheriff of his county and report to the board of county commissioners every failure, refusal, omission, or neglect of such officers to keep such records and books as required by law;

(11) Examine once in each year the official bonds of all county and precinct officers and report to the board of county commissioners any defect in the bonds of any such officer;

(12) Make an annual report to the governor as of the 31st of December of each year setting forth the amount and nature of business transacted by him in that year with such other statements and suggestions as he may deem useful;

(13) Send to the state liquor control board at the end of each year a written report of all prosecutions brought under the state liquor laws in the county during the preceding year, showing in each case, the date of trial, name of accused, nature of charges, disposition of case, and the name of the judge presiding;

(14) Seek to reform and improve the administration of criminal justice and stimulate efforts to remedy inadequacies or injustice in substantive or procedural law. [1975 1st ex.s. c 19 § 1; 1963 c 4 § 36.27.020. Prior: (i) 1911 c 75 § 1; 1891 c 55 § 7; RRS § 116. (ii) 1886 p 65 § 5; 1883 p 73 § 10; Code 1881 § 2171; 1879 p 93 § 6; 1877 p 246 § 6; 1863 p 408 § 4; 1860 p 335 § 3; 1858 p 12 § 4; 1854 p 416 § 4; RRS § 4130. (iii) 1886 p 61 § 7; 1883 p 73 § 12; Code 1881 § 2168; 1879 p 94 § 8; 1877 p 247 § 8; RRS § 4131. (iv) 1886 p 61 § 8; 1883 p 74 § 13; Code 1881 § 2169; 1879 p 94 § 8; 1877 p 247 § 9; RRS § 4132. (v) 1886 p 61 § 9; 1883 p 74 § 14; Code 1881 § 2170; 1879 p 94 § 9; 1877 p 247 § 10; RRS § 4133. (vi) 1886 p 62 § 13; 1883 p 74 § 18; Code 1881 § 2165; 1879 p 95 § 13; 1877 p 248 § 14; 1863 p 409 § 5; 1860 p 334 § 4; 1858 p 12 § 5; 1854 p 417 § 5; RRS § 4134. (vii) Referendum No. 24; 1941 c 191 § 1; 1886 p 63 § 18; 1883 p 76 § 24; Code 1881 § 2146; 1879 p 96 § 18; RRS § 4136. (viii) Code 1881 § 3150; 1866 p 52 § 10; RRS § 4137. (ix) 1933 ex.s. c 62 § 81, part; RRS § 7306-81, part.]

36.27.040 Appointment of deputies—Special and temporary deputies. The prosecuting attorney may appoint one or more deputies who shall have the same power in all respects as their principal. Each appointment shall be in writing, signed by the prosecuting attorney, and filed in the county auditor's office. Each deputy thus appointed shall have the same qualifications required of the prosecuting attorney, except that such deputy need not be a resident of the county in which he serves. The prosecuting attorney may appoint one or more special deputy prosecuting attorneys upon a contract or fee basis whose authority shall be limited to the purposes stated in the writing signed by the prosecuting attorney and filed in the county auditor's office. Such special deputy prosecuting attorney shall be admitted to practice as an attorney before the courts of

this state but need not be a resident of the county in which he serves and shall not be under the legal disabilities attendant upon prosecuting attorneys or their deputies except to avoid any conflict of interest with the purpose for which he has been engaged by the prosecuting attorney. The prosecuting attorney shall be responsible for the acts of his deputies and may revoke appointments at will.

Two or more prosecuting attorneys may agree that one or more deputies for any one of them may serve temporarily as deputy for any other of them on terms respecting compensation which are acceptable to said prosecuting attorneys. Any such deputy thus serving shall have the same power in all respects as if he were serving permanently.

The provisions of chapter 39.34 RCW shall not apply to such agreements. [1975 1st ex.s. c 19 § 2; 1963 c 4 § 36.27.040. Prior: 1959 c 30 § 1; 1943 c 35 § 1; 1903 c 7 § 1; 1891 c 55 § 6; 1886 p 63 § 17; 1883 p 76 § 23; Code 1881 § 2142; 1879 p 95 § 16; Rem. Supp. 1943 § 115.]

Chapter 36.28A ASSOCIATION OF SHERIFFS AND POLICE CHIEFS

Sections

36.28A.010 Declarations.

36.28A.010 Declarations. The Washington association of sheriffs and police chiefs is hereby declared to be a combination of units of local government: *Provided*, That such association shall not be considered an "employer" within the meaning of RCW 41.26.030(2) or 41.40.010(4): *Provided further*, That no compensation received as an employee of the association shall be considered salary for purposes of the provisions of any retirement system created pursuant to the general laws of this state: *Provided further*, That such association shall not qualify for inclusion under the unallocated two mills of the property tax of any political subdivision: *Provided further*, That the association shall not have the authority to assess any excess levy or bond measure. [1975 1st ex.s. c 172 § 1.]

Chapter 36.32 COUNTY COMMISSIONERS

Sections

36.32.120 Powers of legislative authority.
36.32.250 Competitive bids—Procedure in awarding contracts—Bid deposits—Contractor's bond.

36.32.120 Powers of legislative authority. The legislative authorities of the several counties shall:

(1) Provide for the erection and repairing of court houses, jails, and other necessary public buildings for the use of the county;

(2) Lay out, discontinue, or alter county roads and highways within their respective counties, and do all other necessary acts relating thereto according to law, except within cities and towns which have jurisdiction over the roads within their limits;

(3) License and fix the rates of ferriage; grant grocery and other licenses authorized by law to be by them granted;

(4) Fix the amount of county taxes to be assessed according to the provisions of law, and cause the same to be collected as prescribed by law: *Provided*, That the legislative authority of a county may permit all moneys, assessments and taxes belonging to or collected for the use of any county, including any amounts representing estimates for future assessments and taxes, to 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 further*, That the taxpayer, with the concurrence of the county legislative authority, may designate the particular fund against which such prepayment of future tax or assessment shall be credited;

(5) Allow all accounts legally chargeable against the county not otherwise provided for, and audit the accounts of all officers having the care, management, collection, or disbursement of any money belonging to the county or appropriated to its benefit;

(6) Have the care of the county property and the management of the county funds and business and in the name of the county prosecute and defend all actions for and against the county, and such other powers as are or may be conferred by law;

(7) Make and enforce, by appropriate resolutions or ordinances, all such police and sanitary regulations as are not in conflict with state law, and within the unincorporated area of the county may adopt by reference Washington state statutes and recognized codes and/or compilations printed in book form relating to the construction of buildings, the installation of plumbing, the installation of electric wiring, health, or other subjects, and may adopt such codes and/or compilations or portions thereof, together with amendments thereto, or additions thereto: *Provided*, That except for Washington state statutes, there shall be filed in the county auditor's office three copies of such codes and compilations ten days prior to their adoption by reference, and one copy shall also be filed with the city clerk of each city within the county: *Provided further*, That no such regulation, code, compilation, and/or statute shall be effective unless before its adoption, a public hearing has been held thereon by the county legislative authority of which at least ten days' notice has been given. Any violation of such regulations, ordinances, codes, compilations, and/or statutes or resolutions shall constitute a misdemeanor. The notice must set out a copy of the proposed regulations; or if a code is adopted by reference the notice shall set forth the full official title and a statement describing the general purpose of such code. The notice shall also include the day, hour, and place of hearing and must be given by publication in the newspaper in which legal notices of the county are printed;

(8) Have power to compound and release in whole or in part any debt due to the county when in their opinion the interest of their county will not be prejudiced

thereby, except in cases where they or any of them are personally interested;

(9) Have power to administer oaths or affirmations necessary in the discharge of their duties and commit for contempt any witness refusing to testify before them with the same power as justices of the peace. [1975 1st ex.s. c 216 § 1; 1967 ex.s. c 59 § 1; 1963 c 4 § 36.32.120. Prior: 1961 c 27 § 2; prior: (i) 1947 c 61 § 1; 1943 c 99 § 1; Code 1881 § 2673; 1869 p 305 § 11; 1867 p 54 § 11; 1863 p 542 § 11; 1854 p 421 § 11; Rem. Supp. 1947 § 4056. (ii) Code 1881 § 2681; 1869 p 307 § 20; 1867 p 56 § 20; 1863 p 543 § 20; 1854 p 422 § 20; RRS § 4061. (iii) Code 1881 § 2687; 1869 p 308 § 26; 1867 p 57 § 26; 1863 p 545 § 28; 1854 p 423 § 22; RRS § 4071.]

36.32.250 Competitive bids—Procedure in awarding contracts—Bid deposits—Contractor's bond. No contract, lease or purchase shall be entered into by the county legislative authority or by any elected or appointed officer of such county until after bids have been submitted to the county legislative authority upon specifications therefor. Such specifications shall be in writing and shall be filed with the clerk of the county legislative authority for public inspection, and an advertisement thereof stating the date after which bids will not be received, the character of the work to be done, or material, equipment, or service to be purchased, and that specifications therefor may be seen at the office of the clerk of the county legislative authority, shall be published in the county official newspaper and in a legal newspaper of general circulation in or as near as possible to that part of the county in which such work is to be done: *Provided however*, That if the county official newspaper is a newspaper of general circulation covering at least forty percent of the residences in that part of the county in which such work is to be done publication of an advertisement of the applicable specifications in the county official newspaper only shall be sufficient. Such advertisements shall be published at least once in each week for two consecutive weeks prior to the last date upon which bids will be received and as many additional publications as shall be determined by the county legislative authority. The bids shall be in writing, shall be filed with the clerk, shall be opened and read in public at a meeting of the county legislative authority on the date named therefor in said advertisements, and after being opened, shall be filed for public inspection. No bid shall be considered for public work unless it is accompanied by a bid deposit in the form of a surety bond, postal money order, cash, cashier's check, or certified check in an amount equal to five percent of the amount of the bid proposed. The contract for the public work, lease or purchase shall be awarded to the lowest responsible bidder; taking into consideration the quality of the articles or equipment to be purchased or leased. Any or all bids may be rejected for good cause. The county legislative authority shall require from the successful bidder for such public work a contractor's bond in the amount and with the conditions imposed by law. Should the bidder to whom the contract is awarded fail to enter into the contract and furnish the contractor's bond as required within ten

days after notice of the award, exclusive of the day of notice, the amount of the bid deposit shall be forfeited to the county and the contract awarded to the next lowest and best bidder. The bid deposit of all unsuccessful bidders shall be returned after the contract is awarded and the required contractor's bond given by the successful bidder is accepted by the county legislative authority. In the letting of any contract, lease or purchase involving less than one thousand dollars advertisement and competitive bidding may be dispensed with on order of the county legislative authority. Notice of intention to let contracts, enter into lease agreements or to make purchases involving amounts exceeding five hundred dollars and less than one thousand dollars, shall be posted by the county legislative authority on a bulletin board in its office not less than three days prior to making such purchase, lease or contract. Wherever possible, supplies shall be purchased in quantities for a period of at least three months, and not to exceed one year. Supplies generally used throughout the various departments shall be standardized insofar as possible, and may be purchased and stored for general use by all of the various departments which shall be charged for the supplies when withdrawn from the purchasing department. [1975 1st ex.s. c 230 § 1; 1967 ex.s. c 144 § 16; 1967 c 97 § 1; 1965 c 113 § 1; 1963 c 4 § 36.32.250. Prior: 1945 c 61 § 2; Rem. Supp. 1945 § 10322-16.]

Chapter 36.38 ADMISSIONS TAX

Sections

36.38.020 Optional provisions in ordinance.

36.38.020 Optional provisions in ordinance. In addition to the provisions levying and fixing the amount of tax, the ordinance may contain any or all of the following provisions:

(1) A provision defining the words and terms used therein;

(2) A provision requiring the price (exclusive of the tax to be paid by the person paying for admission) at which every admission ticket or card is sold to be conspicuously and indelibly printed or written on the face or back of that part of the ticket which is to be taken up by the management of the place for which an admission charge is exacted, and making the violation of such provision a misdemeanor punishable by fine of not exceeding one hundred dollars;

(3) Provisions fixing reasonable exemptions from such tax;

(4) Provisions allowing as an offset against the tax, the amount of like taxes levied, fixed, and collected within their jurisdiction by incorporated cities and towns in the county;

(5) A provision requiring persons receiving payments for admissions taxed under said ordinance to collect the amount of the tax from the persons making such payments;

(6) A provision to the effect that the tax imposed by said ordinance shall be deemed to be held in trust by the person required to collect the same until paid to the

county treasurer, and making it a misdemeanor for any person receiving payment of the tax and appropriating or converting the same to his own use or to any use other than the payment of the tax as provided in said ordinance to the extent that the amount of such tax is not available for payment on the due date for filing returns as provided in said ordinance;

(7) A provision that in case any person required by the ordinance to collect the tax imposed thereby fails to collect the same, or having collected the tax fails to pay the same to the county treasurer in the manner prescribed by the ordinance, whether such failure is the result of such person's own acts or the result of acts or conditions beyond such person's control, such person shall nevertheless be personally liable to the county for the amount of the tax;

(8) Provisions fixing the time when the taxes imposed by the ordinance shall be due and payable to the county treasurer; requiring persons receiving payments for admissions to make periodic returns to the county treasurer on such forms and setting forth such information as the county treasurer may specify; requiring such return to show the amount of tax upon admissions for which such person is liable for specified preceding periods, and requiring such person to sign and transmit the same to the county treasurer together with a remittance for the amount;

(9) A provision requiring taxpayers to file with the county treasurer verified annual returns setting forth such additional information as he may deem necessary to determine tax liability correctly;

(10) A provision to the effect that whenever a certificate of registration, if required by the ordinance, is obtained for operating or conducting temporary places of amusement by persons who are not the owners, lessees, or custodians of the building, lot or place where the amusement is to be conducted, or whenever the business is permitted to be conducted without the procurement of a certificate, the tax imposed shall be returned and paid as provided in the ordinance by such owner, lessee, or custodian, unless paid by the person conducting the place of amusement;

(11) A provision requiring the applicant for a temporary certificate of registration, if required by the ordinance, to furnish with the application therefor, the name and address of the owner, lessee, or custodian of the premises upon which the amusement is to be conducted, and requiring the county treasurer to notify such owner, lessee, or custodian of the issuance of any such temporary certificate, and of the joint liability for such tax;

(12) A provision empowering the county treasurer to declare the tax upon temporary or itinerant places of amusement to be immediately due and payable and to collect the same, when he believes there is a possibility that the tax imposed under the ordinance will not be otherwise paid;

(13) Any or all of the applicable general administrative provisions contained in RCW 82.32.010 through 82.32.340 and 82.32.380, and the amendments thereto, except that unless otherwise indicated by the context of said sections, in all provisions so incorporated in such

ordinance (a) the term "county treasurer" (of the county enacting said ordinance) shall be substituted for each reference made in said sections to the "department," the "department of revenue," "any employee of the department," or "director of the department of revenue"; (b) the name of the county enacting such ordinance shall be substituted for each reference made in said sections to the "state" or to the "state of Washington"; (c) the term "this ordinance" shall be substituted for each reference made in said sections to "this chapter"; (d) the name of the county enacting said ordinance shall be substituted for each reference made in said sections to "Thurston county"; and (e) the term "board of county commissioners" shall be substituted for each reference made in said sections to the "director of program planning and fiscal management." [1975 1st ex.s. c 278 § 21; 1963 c 4 § 36.38.020. Prior: 1943 c 269 § 3; Rem. Supp. 1943 § 11241-12.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Chapter 36.40 BUDGET

Sections
36.40.205 Salary adjustment for county legislative authority of office—Ratification and validation of preelection action.

36.40.205 Salary adjustment for county legislative authority office—Ratification and validation of preelection action. If prior to the election for any county legislative authority office, a salary adjustment for such position to become effective upon the commencement of the term next following such election is adopted by ordinance or resolution of the legislative authority of such county, and a salary adjustment coinciding with such preceding ordinance or resolution thereof is properly adopted as part of the county budget for the years following such election, such action shall be deemed a continuing part of and shall ratify and validate the preelection action as to such salary adjustment. [1975 1st ex.s. c 32 § 1.]

Chapter 36.54 FERRIES—COUNTY OWNED—FERRY DISTRICTS

Sections
36.54.015 Ferries—Fourteen year long range improvement plan—Contents.

36.54.015 Ferries—Fourteen year long range improvement plan—Contents. The legislative authority of every county operating ferries shall prepare, with the advice and assistance of the county engineer, a fourteen year long range capital improvement plan embracing all major elements of the ferry system. Such plan shall include a listing of each major element of the system showing its estimated current value, its estimated replacement cost, and its amortization period. [1975 1st ex.s. c 21 § 2.]

[1975 RCW Supp—p 344]

Chapter 36.57 COUNTY PUBLIC TRANSPORTATION AUTHORITY

Sections
36.57.080 Transfer of transportation powers and rights to authority—Funds—Contract indebtedness.
36.57.100 Counties authorized to perform public transportation function in unincorporated areas—Exceptions.
36.57.110 Boundaries of unincorporated transportation benefit areas.

Municipality defined: RCW 35.58.272.

36.57.080 Transfer of transportation powers and rights to authority—Funds—Contract indebtedness. On the effective date of the proposition approved by the voters in accord with RCW 35.95.040 or 82.14.045, as now or hereafter amended, the authority shall have and exercise all rights with respect to the construction, acquisition, maintenance, operation, extension, alteration, repair, control and management of passenger transportation which the county or any city located within such county shall have been previously empowered to exercise and such powers shall not thereafter be exercised by the county or such cities without the consent of the authority. The county and all cities within such county upon demand of the authority shall transfer to the authority all unexpended funds earmarked or budgeted from any source for public transportation, including funds receivable. The county in which an authority is located shall have the power to contract indebtedness and issue bonds pursuant to chapter 36.67 RCW to enable the authority to carry out the purposes of this chapter and RCW 35.95.040 or 82.14.045, as now or hereafter amended, and the purposes of this chapter and RCW 35.95.040 or 82.14.045, as now or hereafter amended, shall constitute a "county purpose" as that term is used in chapter 36.67 RCW. [1975 1st ex.s. c 270 § 5; 1974 ex.s. c 167 § 8.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57.100 Counties authorized to perform public transportation function in unincorporated areas—Exceptions. Every county, except a county in which a metropolitan municipal corporation is performing the public transportation function as of July 1, 1975, is authorized to perform such function in such portions of the unincorporated areas of the county, except within the boundaries of a public transportation benefit area established pursuant to chapter 36.57A RCW, as the county legislative body shall determine and the county shall have those powers as are specified in RCW 36.57.040 with respect to the provision of public transportation as is authorized pursuant to RCW 36.57.040. [1975 1st ex.s. c 270 § 9.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57.110 Boundaries of unincorporated transportation benefit areas. The legislative body of any county is hereby authorized to create and define the boundaries of unincorporated transportation benefit areas within the unincorporated areas of the county, following

school district or election precinct lines, as far as practicable. Such areas shall include only those portions of the unincorporated area of the county which could reasonably assume to benefit from the provision of public transportation services. [1975 1st ex.s. c 270 § 10.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Chapter 36.57A

PUBLIC TRANSPORTATION BENEFIT AREAS

Sections

- 36.57A.010 Definitions.
- 36.57A.011 Municipality defined.
- 36.57A.020 Public transportation improvement conference—Convening—Purpose—Multi-county conferences.
- 36.57A.030 Establishment or change in boundaries of public transportation benefit area—Hearing—Notice—Procedure—Authority of county to terminate public transportation benefit area.
- 36.57A.040 Cities to be wholly included or excluded—Boundaries—Only benefited areas to be included—One area per county.
- 36.57A.050 Governing body—Selection, qualification, number and compensation of members.
- 36.57A.060 Comprehensive plan—Development—Elements.
- 36.57A.070 Comprehensive plan—Review—Approval or disapproval—Resubmission.
- 36.57A.080 General powers.
- 36.57A.090 Additional powers.
- 36.57A.100 Agreements with operators of local public transportation services—Operation without agreement prohibited—Purchase or condemnation of assets.
- 36.57A.110 Powers of component city concerning passenger transportation transferred to benefit area—Operation of system by city until acquired by benefit area—Consent.
- 36.57A.120 Acquisition of existing system—Labor contracts, employee rights preserved—Collective bargaining.
- 36.57A.130 Transportation fund—Establishment—Use—Custodian—Contribution of sums for expenses.
- 36.57A.140 Annexation of additional area.
- 36.57A.150 Advanced financial support payments.
- 36.57A.160 Dissolution and liquidation.

36.57A.010 Definitions. For the purposes of this chapter the following definitions shall apply:

(1) "Public transportation benefit area" means a municipal corporation of the state of Washington created pursuant to this chapter.

(2) "Public transportation benefit area authority" or "authority" means the legislative body of a public transportation benefit area.

(3) "City" means an incorporated city or town.

(4) "Component city" means an incorporated city or town within a public transportation benefit area.

(5) "City council" means the legislative body of any city or town.

(6) "County legislative body" means the board of county commissioners or the county council.

(7) "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 by the office of program planning and fiscal management.

(8) "Public transportation service" means the transportation of packages, passengers and their incidental baggage by means other than by chartered bus, sight-

seeing bus, 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 shall prohibit an authority from leasing its buses to private certified carriers or prohibit the authority from providing school bus service.

(9) "Public transportation improvement conference" or "conference" shall mean the body established pursuant to RCW 36.57A.020 which shall be authorized to establish, subject to the provisions of RCW 36.57A.030, a public transportation benefit area pursuant to the provisions of this chapter. [1975 1st ex.s. c 270 § 11.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.011 Municipality defined. See RCW 35.58.272.

36.57A.020 Public transportation improvement conference—Convening—Purpose—Multi-county conferences. The county legislative authority of every class A, class 1, class 2, or class 3 county shall, and the legislative authority of every other county may, within ninety days of July 1, 1975, and as often thereafter as it deems necessary, and upon thirty days prior written notice addressed to the legislative body of each city within the county and with thirty days public notice, convene a public transportation improvement conference to be attended by an elected representative selected by the legislative body of each city, within such county, and by the county commissioners. Such conference shall be for the purpose of evaluating the need for and the desirability of the creation of a public transportation benefit area within certain incorporated and unincorporated portions of the county to provide public transportation services within such area. In those counties where county officials believe the need for public transportation service extends across county boundaries so as to provide public transportation service in a metropolitan area, the county legislative bodies of two or more neighboring counties may elect to convene a multi-county conference. In addition, county-wide conferences may be convened by resolution of the legislative bodies of two or more cities within the county, not to exceed one in any twelve month period, or a petition signed by at least ten percent of the registered voters in the last general election of the city, county or city/county areas of a proposed benefit area. The chairman of the conference shall be elected from the members at large. [1975 1st ex.s. c 270 § 12.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.030 Establishment or change in boundaries of public transportation benefit area—Hearing—Notice—Procedure—Authority of county to terminate public transportation benefit area. Any conference which finds it desirable to establish a public transportation benefit area or change the boundaries of any existing public transportation benefit area shall fix a date for a public hearing thereon, or the legislative bodies of any

two or more component cities or the county legislative body by resolution may require the public transportation improvement conference to fix a date for a public hearing thereon. Prior to the convening of the public hearing, the county governing body shall delineate the area of the county proposed to be included within the transportation benefit area, and shall furnish a copy of such delineation to each incorporated city within such area. Each city shall advise the county governing body, on a preliminary basis, of its desire to be included or excluded from the transportation benefit area. The county governing body shall cause the delineations to be revised to reflect the wishes of such incorporated cities. This delineation shall be considered by the conference at the public hearing for inclusion in the public transportation benefit area.

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 area. The notice shall contain a description and map of the boundaries of the proposed public transportation benefit area and shall state the time and place of the hearing and the fact that any changes in the boundaries of the public transportation benefit 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 public transportation benefit area.

The conference may make such changes in the boundaries of the public transportation benefit 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, and may not delete a portion of any city. If the conference shall determine that any additional territory should be included in the public transportation benefit area, a second hearing shall be held and notice given in the same manner as for the original hearing. The conference may adjourn the hearing on the formation of a public transportation benefit area from time to time not exceeding thirty days in all.

At the next regular meeting following the conclusion of such hearing the conference shall adopt a resolution fixing the boundaries of the proposed public transportation benefit area, declaring that the formation of the proposed public transportation benefit area will be conducive to the welfare and benefit of the persons and property therein.

Within thirty days of the adoption of such conference resolution, the county legislative authority of each county wherein a conference has established proposed boundaries of a public transportation benefit area, may by resolution, upon making a legislative finding that the proposed benefit area includes portions of the county which could not be reasonably expected to benefit from such benefit area or excludes portions of the county which could be reasonably expected to benefit from its creation, disapprove and terminate the establishment of such public transportation benefit area within such county. [1975 1st ex.s. c 270 § 13.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.040 Cities to be wholly included or excluded—Boundaries—Only benefited areas to be included—One area per county. At the time of its formation no public transportation benefit area shall include only a part of any city, and every city shall be either wholly included or wholly excluded from the boundaries of such area. If subsequent to the formation of a public transportation benefit area a part only of any city shall be included within the boundaries of a public transportation benefit area such part shall be deemed to be "unincorporated" for the purpose of selecting a member of the governing authority pursuant to RCW 36.57A.060.

The boundaries of any public transportation benefit area shall follow school district lines or election precinct lines, as far as practicable. Only such areas shall be included which the conference determines could reasonably benefit from the provision of public transportation services. Only one public transportation benefit area may be created in any county. [1975 1st ex.s. c 270 § 14.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.050 Governing body—Selection, qualification, number and compensation of members. Within sixty days of the establishment of the boundaries of the public transportation benefit area the county commissioners and elected representatives of cities within the area shall provide for the selection of the governing body of such area, the public transportation benefit area authority, which shall consist of elected officials selected by and serving at the pleasure of the governing bodies of component cities within the area and the county commissioners of each county within the area.

Within such sixty day period, the legislative body of any city may by resolution of its legislative body withdraw from participation in the public transportation benefit area. The county legislative authority and each city remaining in the public transportation benefit area may disapprove and prevent the establishment of any governing body of a public transportation benefit area if the composition thereof does not meet its approval.

In no case shall the governing body of a single county public transportation benefit area be greater than nine members and in the case of a multicounty area, fifteen members. Those cities within the transportation benefit area and excluded from direct membership on the authority are hereby authorized to designate a member of the authority who shall be entitled to represent the interests of such city which is excluded from direct membership on the authority. The legislative body of such city shall notify the authority as to the determination of its authorized representative on the authority.

Any member of the authority who is an elected official and whose office is not a full time position shall receive forty dollars for each day attending official meetings of the authority. [1975 1st ex.s. c 270 § 15.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.060 Comprehensive plan—Development—Elements. The public transportation benefit area authority authorized pursuant to RCW 36.57A.050 shall develop a comprehensive transit plan for the area. Such plan shall include, but not be limited to the following elements:

(1) The levels of transit service that can be reasonably provided for various portions of the benefit area.

(2) The funding requirements, including local tax sources, state and federal funds, necessary to provide various levels of service within the area.

(3) The impact of such a transportation program on other transit systems operating within that county or adjacent counties.

(4) The future enlargement of the benefit area or the consolidation of such benefit area with other transit systems. [1975 1st ex.s. c 270 § 16.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.070 Comprehensive plan—Review—Approval or disapproval—Resubmission. The comprehensive transit plan adopted by the authority shall be reviewed by the state transportation commission, and if such commission does not exist, by the planning and community affairs agency or its successor to determine:

(1) The completeness of service to be offered and the economic viability of the transit system proposed in such comprehensive transit plan;

(2) Whether such plan integrates the proposed transportation system with existing transportation modes and systems that serve the benefit area;

(3) Whether such plan coordinates that area's system and service with nearby public transportation systems;

(4) Whether such plan is eligible for matching state or federal funds;

After reviewing the comprehensive transit plan, the state transportation commission, and if such does not exist, the planning and community affairs agency or its successor shall have sixty days in which to approve such plan and to certify to the state treasurer that such public transportation benefit area shall be eligible to receive the motor vehicle excise tax proceeds authorized pursuant to RCW 35.58.273, as now or hereafter amended in the manner prescribed by chapter 82.44 RCW, as now or hereafter amended. To be approved a plan shall provide for coordinated transportation planning, the integration of such proposed transportation program with other transportation systems operating in areas adjacent to, or in the vicinity of the proposed public transportation benefit area, and be consistent with the public transportation coordination criteria adopted pursuant to the urban mass transportation act of 1964 as amended as of July 1, 1975. In the event such comprehensive plan is disapproved and ruled ineligible to receive motor vehicle tax proceeds, the state transportation commission, and if such does not exist, the planning and community affairs agency or its successor, shall provide written notice to the authority within thirty days as to the reasons for such plan's disapproval and such ineligibility. The authority may resubmit such plan upon reconsideration and correction

of such deficiencies in the plan cited in such notice of disapproval. [1975 1st ex.s. c 270 § 17.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.080 General powers. In addition to the powers specifically granted by this chapter a public transportation benefit area shall have all powers which are necessary to carry out the purposes of the public transportation benefit area. A public transportation benefit area may contract with the United States or any agency thereof, any state or agency thereof, any other public transportation benefit area, any county, city, metropolitan municipal corporation, special district, or governmental agency, within or without the state, 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 transportation facilities. In addition a public transportation benefit area 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 public transportation benefit area may be authorized to operate or perform, on such terms as may be agreed upon by the contracting parties. Before any contract for the lease or operation of any public transportation benefit area 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 public transportation benefit area authority shall determine.

A public transportation benefit area may sue and be sued in its corporate capacity in all courts and in all proceedings. [1975 1st ex.s. c 270 § 18.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.090 Additional powers. A public transportation benefit area authority 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 public transportation benefit 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 transportation facilities and properties within or without the public transportation benefit area or the state, 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 public transportation benefit area authority 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 a public transportation benefit area authority 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 public transportation benefit area authority, without submitting the matter to the voters of such city.

The facilities and properties of a public transportation benefit area 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, as now or hereafter amended, 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.

In the event any public transportation benefit area shall extend its public transportation services to any area of 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. [1975 1st ex.s. c 270 § 19.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.100 Agreements with operators of local public transportation services—Operation without agreement prohibited—Purchase or condemnation of assets. Except in accordance with an agreement made as provided in this section, upon the effective date on which the public transportation benefit area commences to perform the public transportation service, no person or private corporation shall operate a local public passenger transportation service within the public transportation benefit area with the exception of taxis, buses owned or operated by a school district or private school, and buses 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 public transportation benefit area authority and any person

or corporation legally operating a local public passenger transportation service wholly within or partly within and partly without the public transportation benefit 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 public transportation benefit area, the public transportation benefit area authority 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 public transportation benefit area authority shall condemn such assets in the manner and by the same procedure as is or may be provided by law for the condemnation of other properties for cities of the first class, except insofar as such laws may be inconsistent with the provisions of this chapter.

Wherever a privately owned public carrier operates wholly or partly within a public transportation benefit area, the Washington utilities and transportation commission shall continue to exercise jurisdiction over such operation as provided by law. [1975 1st ex.s. c 270 § 20.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.110 Powers of component city concerning passenger transportation transferred to benefit area—Operation of system by city until acquired by benefit area—Consent. The public transportation benefit area shall 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 public transportation benefit area: *Provided*, That any city owning and operating a public transportation system on July 1, 1975 may continue to operate such system within such city until such system shall have been acquired by the public transportation benefit area and a public transportation benefit area may not acquire such system without the consent of the city council of such city. [1975 1st ex.s. c 270 § 21.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.120 Acquisition of existing system—Labor contracts, employee rights preserved—Collective bargaining. If a public transportation benefit area 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 public transportation benefit area authority 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. [1975 1st ex.s. c 270 § 22.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.130 Transportation fund—Establishment—Use—Custodian—Contribution of sums for expenses. Each public transportation benefit area authority shall establish a fund to be designated as the "transportation fund", in which shall be placed all sums received by the authority from any source except the proceeds of bonds issued by the authority, and out of which shall be expended all sums disbursed by the authority unless otherwise provided in bond covenants. The county treasurer, or in the case of a multi-county public transportation benefit area, the county treasurer of the largest component county, shall be the custodian of the fund. The county auditor of such county shall keep the record of the receipts and disbursements, and shall draw and such county treasurer shall honor and pay all warrants, which shall be approved before issuance and payment as directed by the authority.

The county or counties and each city or town which is included in the authority shall contribute such sums towards the expense for maintaining and operating the public transportation system as shall be agreed upon between them. [1975 1st ex.s. c 270 § 23.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.140 Annexation of additional area. (1) An election to authorize the annexation of territory contiguous to a public transportation benefit area may be called within the area to be annexed pursuant to resolution or petition in the following manner:

(a) By resolution of a public transportation benefit area authority when it shall determine that the best interests and general welfare of such public transportation benefit area would be served. Such authority shall consider the question of areas to be annexed to the public transportation benefit area at least once every two years.

(b) By petition calling for such an election signed by at least four percent of the qualified voters residing within the area to be annexed and filed with the auditor of the county wherein the largest portion of the public transportation benefit area is located, and notice thereof shall be given to such authority. Upon receipt of such a petition, the auditor shall examine the same and certify to the sufficiency of the signatures thereon.

(c) By resolution of a public transportation benefit area authority upon request of any city for annexation thereto.

(2) The resolution or petition shall describe the boundaries of the area to be annexed. It shall require

that there also be submitted to the electorate of the territory sought to be annexed a proposition authorizing the inclusion of such area within the public transportation benefit area and authorizing the imposition of such taxes authorized by law to be collected by the authority.

(3) Upon the annexation of additional area to a public transportation benefit area, the authority of the public transportation benefit area shall be reconstituted within sixty days in accordance with the provisions of RCW 36.57A.050. [1975 1st ex.s. c 270 § 24.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.150 Advanced financial support payments. Counties that have established a county transportation authority pursuant to chapter 36.57 RCW and public transportation benefit areas that have been established pursuant to this chapter are eligible to receive a one-time advanced financial support payment from the state to assist in the development of the initial comprehensive transit plan required by RCW 36.57.070 and 36.57A-.060. The amount of this support payment is established at one dollar per person residing within each county or public transportation benefit area, as determined by the office of program planning and fiscal management, but no single payment shall exceed fifty thousand dollars. Repayment of an advanced financial support payment shall be made to the public transportation account in the general fund or, if such account does not exist, to the general fund by each agency within two years of the date such advanced payment was received. Such repayment shall be waived within two years of the date such advanced payment was received if the voters in the appropriate counties or public transportation benefit areas do not elect to levy and collect taxes enabled under authority of *this 1975 amendatory act. The state department of transportation or, if such department does not exist, the planning and community affairs agency shall provide technical assistance in the preparation of local transit plans, and administer the advanced financial support payments authorized by this section. [1975 1st ex.s. c 270 § 25.]

***Reviser's note:** "this 1975 amendatory act" [1975 1st ex.s. c 270] consists of RCW 35.58.2721, 35.58.2794, 36.57.100, 36.57.110, chapter 36.57A RCW, amendments to RCW 35.58.272, 35.58.278, 35.95.020, 35.95.040, 36.57.080, 82.14.045, and to the repeal of RCW 35.58.2731, 82.14.047, 1973 1st ex.s. c 136 §§ 1-9, and 1974 ex.s. c 54 § 6.

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

36.57A.160 Dissolution and liquidation. A public transportation benefit area established pursuant to this chapter may be dissolved and its affairs liquidated when so directed by a majority of persons in the benefit area voting on such question. An election placing such question before the voters may be called in the following manner:

(1) By resolution of the public transportation benefit area authority;

(2) By resolution of the county legislative body or bodies with the concurrence therein by resolution of the city council of a component city; or

(3) By petition calling for such election signed by at least ten percent of the qualified voters residing within the area filed with [the] auditor of the county wherein the largest portion of the public transportation benefit area is located. The auditor shall examine the same and certify to the sufficiency of the signatures thereon: *Provided*, That to be validated, signatures must have been collected within a ninety day period as designated by the petition sponsors.

With dissolution of the benefit area, any outstanding obligations and bonded indebtedness of the public transportation benefit area shall be satisfied or allocated by mutual agreement to the county or counties and component cities of the public transportation benefit area. [1975 1st ex.s. c 270 § 26.]

Severability—Effective date—1975 1st ex.s. c 270: See notes following RCW 35.58.272.

Chapter 36.67

LIMITATION OF INDEBTEDNESS—COUNTY BONDS

Sections

36.67.060 Payment of principal and interest.

36.67.060 Payment of principal and interest. Bonds issued under this chapter shall be serial in form and maturity and interest shall be paid and the principal of the bonds retired by an annual tax levy in accordance with the provisions of chapter 39.44 RCW and by any other moneys lawfully available and pledged therefor. [1975 1st ex.s. c 188 § 1; 1963 c 4 § 36.67.060. Prior: (i) 1890 p 39 § 6; RRS § 5580. (ii) 1890 p 39 § 7; RRS § 5581.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

Chapter 36.75

ROADS AND BRIDGES—GENERAL PROVISIONS

Sections

36.75.010 Definitions.

36.75.010 Definitions. Terms used in this title, with relation to roads and bridges, mean:

(1) "Alley," a highway not designed for general travel and primarily used as a means of access to the rear of residences and business establishments;

(2) "Board," the board of county commissioners;

(3) "Center line," the line, marked or unmarked, parallel to and equidistant from the sides of a two-way traffic roadway of a highway except where otherwise indicated by painted lines or markers;

(4) "City street," every highway or part thereof, located within the limits of incorporated cities and towns, except alleys;

(5) "County engineer" shall include county director of public works;

(6) "County road," every highway or part thereof, outside the limits of incorporated cities and towns and which has not been designated as a state highway;

(7) "Department," the department of highways of the state, or such state agency as may succeed to its powers and duties;

(8) "Director," the acting director of the department of highways or his duly authorized assistant;

(9) "Highway commission," the state highway commission as provided for in chapter 47.01 RCW;

(10) "Pedestrian," any person afoot;

(11) "Private road or driveway," every way or place in private ownership and used for travel of vehicles by the owner or those having express or implied permission from the owner, but not by other persons;

(12) "Highway," every way, lane, road, street, boulevard, and every way or place in the state of Washington open as a matter of right to public vehicular travel both inside and outside the limits of incorporated cities and towns;

(13) "Railroad," a carrier of persons or property upon vehicles, other than streetcars, operated upon stationary rails, the route of which is principally outside incorporated cities and towns;

(14) "Roadway," the paved, improved, or proper driving portion of a highway designed, or ordinarily used for vehicular travel;

(15) "Sidewalk," property between the curb lines or the lateral lines of a roadway, and the adjacent property, set aside and intended for the use of pedestrians or such portion of private property parallel and in proximity to a highway and dedicated to use by pedestrians;

(16) "State highway," includes every highway as herein defined, or part thereof, which has been designated as a state highway, or branch thereof, by legislative enactment. [1975 c 62 § 1; 1969 ex.s. c 182 § 1; 1963 c 4 § 36.75.010. Prior: 1937 c 187 § 1; RRS § 6450-1.]

Severability—1975 c 62: "If any provision of this 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." [1975 c 62 § 52.]

Chapter 36.78

ROADS AND BRIDGES—COUNTY ROAD ADMINISTRATION BOARD

Sections

36.78.080 Members to serve without compensation—Reimbursement for expenses.

36.78.080 Members to serve without compensation—Reimbursement for expenses. Members of the county road administration board shall receive no compensation for their service on the board, but shall be reimbursed for travel and other expenses incurred while attending meetings of the board or while engaged on other business of the board when authorized by the board to the extent of twenty-five dollars per day plus the mileage rate authorized in RCW 43.03.060 or actual necessary transportation expenses. [1975 1st ex.s. c 1 § 1; 1969 ex.s. c 182 § 5; 1965 ex.s. c 120 § 8.]

Chapter 36.81

ROADS AND BRIDGES—ESTABLISHMENT

Sections

- 36.81.121 Perpetual advanced plans for coordinated road program—Six year program for arterial road construction, ferries, docks, etc. (as amended by 1975 1st ex.s. c 21).
- 36.81.121 Perpetual advanced plans for coordinated road program—Six year program for arterial road construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures (as amended by 1975 1st ex.s. c 215).
- 36.81.130 Procedure specified for establishment, construction and maintenance.

36.81.121 Perpetual advanced plans for coordinated road program—Six year program for arterial road construction, ferries, docks, etc. (as amended by 1975 1st ex.s. c 21). Prior to July 1, 1968, the legislative authority of each county with the advice and assistance of the county road engineer, and pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive road program for the ensuing six calendar years. Such program shall include proposed road and bridge construction work and for those counties operating ferries shall also include a separate section showing proposed capital expenditures for ferries, docks, and related facilities. Copies of the program shall be filed with the county administration board and with the director of highways not more than thirty days after its adoption by the board. Annually thereafter each board shall review the work accomplished under the program and determine current county road needs. Based on these findings each board shall prepare and after public hearing thereon adopt a revised and extended comprehensive road program, and each one year extension and revision shall be filed with the director of highways not more than thirty days after its adoption by the board. The purpose of this section shall be to assure that perpetually each county shall have available advanced plans, looking to the future for not less than six years as a guide in carrying out a coordinated road construction program. Such program may at any time be revised by a majority of the board but only after a public hearing thereon.

The six year program of each county having an urban area within its boundaries shall contain a separate section setting forth the six year program for arterial road 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 road construction shall be submitted to the urban arterial board forthwith after its annual revision and adoption by the board of county commissioners. The six year program for arterial road construction shall be based upon estimated revenues available for such construction together with such additional sums as the county commissioners may request for urban arterials only from the urban arterial trust account for the six year period. The arterial road construction program shall provide for a more rapid rate of completion of the long range construction needs of major arterial roads than for secondary and collector arterial roads, pursuant to regulations of the urban arterial board. [1975 1st ex.s. c 21 § 3; 1967 ex.s. c 83 § 26; 1963 c 4 § 36.81.121. Prior: 1961 c 195 § 1.]

36.81.121 Perpetual advanced plans for coordinated road program—Six year program for arterial road construction—Expenditures—Bicycle, pedestrian and equestrian funds, expenditures (as amended by 1975 1st ex.s. c 215). (1) Prior to July 1, 1968, the legislative authority of each county with the advice and assistance of the county road engineer, and pursuant to one or more public hearings thereon, shall prepare and adopt a comprehensive road 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 by the legislative authority. Annually thereafter each legislative authority shall review the work accomplished under the program and determine current county road needs. Based on these findings each legislative authority shall prepare and after public hearing thereon adopt a revised and extended comprehensive road program, and each one year extension and revision shall be filed with the director of highways not more than thirty days after its adoption by the legislative authority. The purpose of this section shall be to assure that perpetually each county shall have available advanced plans, looking to the future for not less

than six years as a guide in carrying out a coordinated road construction program. Such program may at any time be revised by a majority of the legislative authority but only after a public hearing thereon.

The six year program of each county having an urban area within its boundaries shall contain a separate section setting forth the six year program for arterial road 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 road construction shall be submitted to the urban arterial board forthwith after its annual revision and adoption by the legislative authority of each county. The six year program for arterial road construction shall be based upon estimated revenues available for such construction together with such additional sums as the legislative authority of each county may request for urban arterials only from the urban arterial trust account for the six year period. The arterial road construction program shall provide for a more rapid rate of completion of the long range construction needs of major arterial roads than for secondary and collector arterial roads, pursuant to regulations of the urban arterial board.

(2) On and after July 1, 1976 each six year program forwarded to the director in compliance with subsection (1) of this section shall contain information as to how a county will expend its moneys, including funds made available pursuant to chapter 47.30 RCW, for bicycles, pedestrians, and equestrian purposes. [1975 1st ex.s. c 215 § 2; 1967 ex.s. c 83 § 26; 1963 c 4 § 36.81.121. Prior: 1961 c 195 § 1.]

Reviser's note: RCW 36.81.121 was amended twice by the 1975 first extraordinary session of the legislature, each without reference to the other.

For rule of construction for sections amended more than once during the same session, see RCW 1.12.025.

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.

Priority projects to be selected in preparation of six year program: RCW 47.26.220.

Urban arterial board: Chapter 47.26 RCW.

36.81.130 Procedure specified for establishment, construction and maintenance. The laying out, construction, and maintenance of all county roads shall hereafter be in accordance with the following procedure:

On or before the first Monday in July of each year each county road engineer shall file with the county legislative authority a recommended plan for the laying out, construction, maintenance, and special maintenance of county roads for the ensuing fiscal year. Such recommended plan need not be limited to but shall include the following items: Recommended projects, including capital expenditures for ferries, docks, and related facilities, and their priority; the estimated cost of all work, including labor and materials for each project recommended; a statement as to whether such work is to be done by the county forces or by publicly advertised contract; a list of all recommended repairs to and purchases of road equipment, together with the estimated costs thereof. Amounts to be expended for maintenance and special maintenance shall be recommended, but details of these proposed expenditures shall not be made. The recommended plan shall conform as nearly as practicable to the county's long range road program.

Within two weeks after the filing of the road engineer's recommended plan, the county legislative authority shall consider the same. Revisions and changes

may be made until a plan which is agreeable to a majority of the members of the county legislative authority has been adopted: *Provided*, That such revisions shall conform as nearly as practicable to the county's long range road program. Any appropriations contained in the county road budget shall be void unless the county's road plan was adopted prior to such appropriation.

The final road plan for the fiscal year shall not thereafter be changed except by unanimous vote of the county legislative authority. [1975 1st ex.s. c 21 § 4; 1963 c 4 § 36.81.130. Prior: 1949 c 156 § 7; Rem. Supp. 1949 § 6450-8f.]

Chapter 36.87

ROADS AND BRIDGES—VACATION

Sections

36.87.140 Retention of easement for public utilities and services.

36.87.140 Retention of easement for public utilities and services. Whenever a county road or any portion thereof is vacated the legislative body may include in the resolution authorizing the vacation a provision that the county retain an easement in respect to the vacated land for the construction, repair, and maintenance of public utilities and services which at the time the resolution is adopted are authorized or are physically located on a portion of the land being vacated: *Provided*, That the legislative body shall not convey such easement to any public utility or other entity or person but may convey a permit or franchise to a public utility to effectuate the intent of this section. The term "public utility" as used in this section shall include utilities owned, operated, or maintained by every gas company, electrical company, telephone company, telegraph company, and water company whether or not such company is privately owned or owned by a governmental entity. [1975 c 22 § 1.]

Chapter 36.93

LOCAL GOVERNMENTAL ORGANIZATION— BOUNDARIES—REVIEW BOARDS

Sections

36.93.150 Review of proposed actions—Actions and determinations of board—Disapproval, effect.

36.93.150 Review of proposed actions—Actions and determinations of board—Disapproval, effect. The board, upon review of any proposed action, shall take such of the following actions as it deems necessary to best carry out the intent of this chapter:

- (1) Approval of the proposal as submitted;
- (2) Subject to RCW 35.02.170, modification of the proposal by adjusting boundaries to add or delete territory: *Provided*, That any proposal for annexation by the board shall be subject to RCW 35.21.010 and shall not add additional territory, the amount of which is greater than that included in the original proposal;
- (3) Determination of a division of assets and liabilities between two or more governmental units where relevant;

[1975 RCW Supp—p 352]

(4) Determination whether, or the extent to which, functions of a special purpose district are to be assumed by an incorporated city or town, metropolitan municipal corporation, or another existing special purpose district; or

(5) Disapproval of the proposal except that the board shall not have jurisdiction to disapprove the dissolution or disincorporation of a special purpose district which is not providing services but shall have jurisdiction over the determination of a division of the assets and liabilities of a dissolved or disincorporated special purpose district.

Unless the board shall disapprove a proposal, it shall be presented under the appropriate statute for approval of a public body and, if required, a vote of the people. A proposal that has been modified shall be presented under the appropriate statute for approval of a public body and if required, a vote of the people. If a proposal after modification does not contain enough signatures of persons within the modified area, as are required by law, then the initiating party, parties or governmental unit has thirty days after the modification decision to secure enough signatures to satisfy the legal requirement. If the signatures cannot be secured then the proposal may be submitted to a vote of the people, as required by law.

When the board, after due proceedings held, disapproves a proposed action, such proposed action shall be unavailable, the proposing agency shall be without power to initiate the same or substantially the same as determined by the board, and any succeeding acts intended to or tending to effectuate that action shall be void, but such action may be reinitiated after a period of twelve months from date of disapproval and shall again be subject to the same consideration. [1975 1st ex.s. c 220 § 10; 1969 ex.s. c 111 § 8; 1967 c 189 § 15.]

Legislative finding, intent—1975 1st ex.s. c 220: See note following RCW 35.02.170.

Chapter 36.94

SEWERAGE, WATER AND DRAINAGE SYSTEMS

Sections

- 36.94.140 Authority of county to operate system—Rates and charges, fixing of—Factors to be considered.
- 36.94.150 Lien for delinquent charges.
- 36.94.210 Pledge for payment of principal and interest on revenue or general obligation bonds.
- 36.94.220 Utility local improvement districts—Establishment—Special assessments.
- 36.94.310 Transfer of system from municipal corporation to county—Authorized.
- 36.94.320 Transfer of system from municipal corporation to county—Assumption of indebtedness.
- 36.94.330 Transfer of system from municipal corporation to county—Transfer agreement.
- 36.94.340 Transfer of system from municipal corporation to county—Petition for court approval of transfer—Hearing—Decree.
- 36.94.350 Transfer of system from municipal corporation to county—Dissolution of municipal corporation.
- 36.94.360 Transfer of system from municipal corporation to county—RCW 36.94.310 through 36.94.350 deemed alternative method.
- 36.94.921 Severability—1975 1st ex.s. c 188.

36.94.140 Authority of county to operate system—Rates and charges, fixing of—Factors to be considered. Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate and control it and to fix, alter, regulate and control the rates and charges for the service to those to whom such county service is available, and to levy charges for connection to such system. The rates for availability of service and connection charges so charged must be uniform for the same class of customers or service.

In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the board may consider any or all of the following factors:

- (1) The difference in cost of service to the various customers within or without the area;
- (2) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;
- (3) The different character of the service furnished various customers;
- (4) The quantity and quality of the sewage and/or water delivered and the time of its delivery;
- (5) Capital contributions made to the system or systems, including, but not limited to, assessments; and
- (6) Any other matters which present a reasonable difference as a ground for distinction.

Such rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system. [1975 1st ex.s. c 188 § 2; 1967 c 72 § 14.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.150 Lien for delinquent charges. All counties operating a system of sewerage and/or water shall have a lien for delinquent connection charges and charges for the availability of sewerage and/or water service, together with interest fixed by resolution at eight percent per annum from the date due until paid. Penalties of not more than ten percent of the amount due may be imposed in case of failure to pay the charges at times fixed by resolution. The lien shall be for all charges, interest, and penalties and shall attach to the premises to which the services were available. The lien shall be superior to all other liens and encumbrances, except general taxes and local and special assessments of the county.

The county department established in RCW 36.94.120 shall certify periodically the delinquencies to the treasurer of the county at which time the lien shall attach.

Upon the expiration of sixty days after the attachment of the lien, the county may bring suit in foreclosure by civil action in the superior court of the county where the property is located. In addition to the costs and disbursements provided by statute, the court may allow the county a reasonable attorney's fee. The lien

shall be foreclosed in the same manner as the foreclosure of real property tax liens. [1975 1st ex.s. c 188 § 3; 1967 c 72 § 15.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.210 Pledge for payment of principal and interest on revenue or general obligation bonds. The board of county commissioners of any county in adopting and establishing a system of sewerage and/or water may set aside into a special fund and pledge to the payment of the principal and interest due on any county revenue bonds or general obligation bonds any sums or amounts which may accrue from the collection of rates and charges for the private and public use of the system or systems. [1975 1st ex.s. c 188 § 4; 1967 c 72 § 21.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.220 Utility local improvement districts—Establishment—Special assessments. A county shall have the power to establish utility local improvement districts within the area of a sewerage and/or water general plan and to levy special assessments under a mode of annual installments extending over a period not exceeding twenty years on all property specially benefited by any local improvement on the basis of the special benefits to pay in whole or in part the damages or costs of any improvements ordered in such county. Utility local improvement districts may include territory within a city or town only with the written consent of the city or town, but if the local district is formed before such area is included within the city or town, no such consent shall be necessary. The levying, collection and enforcement of all public assessments hereby authorized shall be in the manner now and hereafter provided by law for the levying, collection and enforcement of local improvement assessments by cities of the first class, insofar as the same shall not be inconsistent with the provisions of this chapter. The duties devolving upon the city treasurer under such laws are imposed upon the county treasurer for the purposes of this chapter. The mode of assessment shall be in the manner to be determined by the board of county commissioners by resolution. Assessments in any utility local improvement district may be made on the basis of special benefits up to but not in excess of the total cost of any sewerage and/or water improvement. In utility local improvement districts, assessments shall be deposited into the revenue bond fund or general obligation bond fund established for the payment of bonds issued to pay such costs which bond payments are secured in part by the pledge of assessments. [1975 1st ex.s. c 188 § 5; 1971 ex.s. c 96 § 9; 1967 c 72 § 22.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

Construction—Severability—1971 ex.s. c 96: See notes following RCW 36.94.010.

36.94.310 Transfer of system from municipal corporation to county—Authorized. Subject to the provisions of RCW 36.94.310 through 36.94.350 a municipal corporation may transfer to the county within which all

of its territory lies, all or part of the property constituting its system of sewerage, system of water or combined water and sewerage system, together with any of its other real or personal property used or useful in connection with the operation, maintenance, repair, replacement, extension, or financing of that system, and the county may acquire such property on such terms as may be mutually agreed upon by the governing body of the municipal corporation and the legislative authority of the county, and approved by the superior court for such county. [1975 1st ex.s. c 188 § 7.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.320 Transfer of system from municipal corporation to county—Assumption of indebtedness. In consideration of a transfer of property by a municipal corporation to a county in the manner provided in RCW 36.94.310 through 36.94.350, a county may assume and agree to pay or provide for the payment of all or part of the indebtedness of a municipal corporation including the payment and retirement of outstanding general obligation and revenue bonds issued by a municipal corporation. Until the indebtedness of a municipal corporation thus assumed by a county has been discharged, all property within the municipal corporation and the owners and occupants of that property, shall continue to be liable for taxes, special assessments, and other charges legally pledged to pay such indebtedness. The county may assume the obligation of causing the payment of such indebtedness, collecting such taxes, assessments, and charges and observing and performing the other contractual obligations of the municipal corporation. The legislative authority of the county may act in the same manner as the governing body of the municipal corporation for the purpose of certifying the amount of any property tax to be levied and collected therein, and may cause service and other charges and assessments to be collected from such property or owners or occupants thereof, enforce such collection and perform all other acts necessary to insure performance of the contractual obligations of the municipal corporation in the same manner and by the same means as if the property of the municipal corporation had not been acquired by the county.

When a county assumes the obligation of paying indebtedness of a municipal corporation 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 municipal corporation prior to such assumption, the same when collected shall belong and be paid to the county and be used by such county so far as necessary for payment of the indebtedness of the municipal corporation existing and unpaid on the date such county assumed that indebtedness. Any funds received by the county which have been collected for the purpose of paying any bonded or other indebtedness of the municipal corporation shall be used for the purpose for which they were collected and for no other purpose until such indebtedness has been paid and retired or adequate provision has been made for such payment and retirement. No transfer of property as provided in *this amendatory act shall derogate from

the claims or rights of the creditors of the municipal corporation or impair the ability of the municipal corporation to respond to its debts and obligations. [1975 1st ex.s. c 188 § 8.]

***Reviser's note:** "this amendatory act" [1975 1st ex.s. c 188] consists of RCW 36.94.310 through 36.94.360, 36.94.921, 57.06.140 through 57.06.170, and amendments to RCW 36.67.060, 36.94.140, 36.94.150, 36.94.210, 36.94.220, 39.44.020, and 57.12.020.

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.330 Transfer of system from municipal corporation to county—Transfer agreement. The governing body of a municipal corporation proposing to transfer all or part of its property to a county in the manner provided by RCW 36.94.310 through 36.94.350 and the legislative authority of a county proposing to accept such property, and to assume if it so agrees any indebtedness of the municipal corporation in consideration of such transfer, shall adopt resolutions or ordinances authorizing respectively the execution of a written agreement setting forth the terms and conditions upon which they have agreed and finding the transfer and acquisition of property pursuant to such agreement to be in the public interest and conducive to the public health, safety, welfare, or convenience. Such written agreement may include provisions, by way of description and not by way of limitation, for the rights, powers, duties, and obligations of such municipal corporation and county with regard to the use and ownership of property, the providing of services, the maintenance and operation of facilities, the allocation of costs, the financing and construction of new facilities, the application and use of assets, the disposition of liabilities and indebtedness, the performance of contractual obligations, and any other matters relating to the proposed transfer of property, which may be preceded by an interim period of operation by the county of the property and facilities subsequently to be transferred to that county. The agreement may provide for a period of time during which the municipal corporation may continue to exercise certain rights, privileges, powers, and functions authorized to it by law including the ability 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, or the agreement may provide for the exercise for a period of time of all or some of such rights, privileges, powers, and functions by the county. The agreement may provide that either party thereto may authorize, issue and sell, in the manner provided by law, revenue bonds to provide funds for new water or sewer improvements or to refund or advance refund any water revenue, sewer revenue or combined water and sewer revenue bonds outstanding of either or both such parties. The agreement may provide that either 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 either or both such parties and such new

bonds may be substituted or exchanged for such outstanding bonds to the extent permitted by law. [1975 1st ex.s. c 188 § 9.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.340 Transfer of system from municipal corporation to county—Petition for court approval of transfer—Hearing—Decree. When a municipal corporation and a county have entered into a written agreement providing for the transfer to such county of all or part of the property of such municipal corporation, proceedings may be initiated in the superior court for that county by the filing of a petition to which there shall be attached copies of the agreement of the parties and of the resolutions of the governing body of the municipal corporation and the legislative authority of the county authorizing its execution. Such petition shall ask that the court approve and direct the proposed transfer of property, and any assumption of indebtedness agreed to in consideration thereof by the county, after finding such transfer and acquisition of property to be in the public interest and conducive to the public health, safety, welfare, or convenience. Such petition shall be signed by the members of the legislative authority of the county or chief administrative officer of the municipal corporation and the chairman of the legislative authority of the county, respectively, upon authorization by the governing body of the municipal corporation and the legislative authority of the county.

Within thirty days after the filing of the petition of the parties with copies of their agreement and the resolutions authorizing its execution attached thereto, the court shall by order fix a date for a hearing on the petition not less than twenty nor more than ninety days after the entry of such order which also shall prescribe the form and manner of notice of such hearing to be given. After considering the petition and such evidence as may be presented at the hearing thereon, the court may determine by decree that the proposed transfer of property is in the public interest and conducive to the public health, safety, welfare, or convenience, approve the agreement of the parties and direct that such transfer be accomplished in accordance with that agreement at the time and in the manner prescribed by the court decree. [1975 1st ex.s. c 188 § 10.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.350 Transfer of system from municipal corporation to county—Dissolution of municipal corporation. In the event the agreement of the parties provides for the transfer to the county of all the property of the municipal corporation or all such property except bond redemption funds in the possession of the county treasurer from which outstanding bonds of the municipal corporation are payable, and the agreement also provides for the assumption and payment by the county of all the indebtedness of the municipal corporation including the payment and retirement of all its outstanding bonds, and if the petition of the parties so requests, the court in the decree approving and directing the transfer of property, or in a subsequent decree, may

dissolve the municipal corporation effective as of the time of transfer of property or at such time thereafter as the court may determine and establish. [1975 1st ex.s. c 188 § 11.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.360 Transfer of system from municipal corporation to county—RCW 36.94.310 through 36.94.350 deemed alternative method. The provisions of RCW 36.94.310 through 36.94.350 shall be deemed to provide an alternative method for the doing of the things therein authorized and shall not be construed as imposing any additional conditions upon the exercise of any other powers vested in municipal corporations or counties. [1975 1st ex.s. c 188 § 12.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

36.94.921 Severability—1975 1st ex.s. c 188. If any provision of this 1975 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 shall not be affected. [1975 1st ex.s. c 188 § 13.]

Chapter 36.95

TELEVISION RECEPTION IMPROVEMENT DISTRICTS

Sections

36.95.100 Tax levied—Maximum—Exemptions.

36.95.100 Tax levied—Maximum—Exemptions. The tax provided for in RCW 36.95.090 and this section shall not exceed twenty-five dollars per year per television set, and no person shall be taxed for more than one television set, except that a motel or hotel or any person owning in excess of five television sets shall pay at a rate of one-fifth of the annual tax rate imposed for each of the first five television sets and one-tenth of such rate for each additional set thereafter. An owner of a television set within the district shall be exempt from paying any tax on such set under this chapter: (1) If either (a) his television set does not receive at least a class grade B contour signal retransmitted by the television translator station or other similar device operated by the district, as such class is defined under regulations of the Federal Communications Commission as of August 9, 1971, or (b) he is currently subscribing to and receiving the services of a community antenna system (CATV) to which his television set is connected; and (2) if he filed a statement with the board claiming his grounds for exemption. Space for such statement shall be provided for in the tax notice which the treasurer shall send to taxpayers in behalf of the district. [1975 c 11 § 1; 1971 ex.s. c 155 § 10.]

Title 37

FEDERAL AREAS AND JURISDICTION

Chapters

37.08 Jurisdiction in special cases.

Chapter 37.08

JURISDICTION IN SPECIAL CASES

Sections

37.08.280 Veterans hospitals.

37.08.280 Veterans hospitals. Upon the filing of an appropriate notice thereof with the governor by the administrator of veterans affairs, an agency of the United States of America, pursuant to the provisions of section 302 of Public Law 93-82 (87 Stat. 195; 38 U.S.C. Sec. 5007), the governor is hereby authorized and directed to accept such legislative jurisdiction as is necessary to establish concurrent jurisdiction between the United States and the state of Washington to all land comprising the veterans hospital located at Vancouver in Clark county, Washington; the veterans administration hospital located at Walla Walla in Walla Walla county, Washington, and the veterans administration hospital located at American Lake in Pierce county, Washington. The acquisition of such concurrent jurisdiction shall become effective upon filing the documents signifying such acceptance in the office of the secretary of state. [1975 1st ex.s. c 142 § 1.]

Title 38

MILITIA AND MILITARY AFFAIRS

Chapters

38.20 Armories and rifle ranges.

38.52 Emergency services.

Chapter 38.20

ARMORIES AND RIFLE RANGES

Sections

38.20.010 Regulations governing armories.

38.20.010 Regulations governing armories. State owned armories may be used for strictly military purposes: *Provided*, That one room may be set aside for the exclusive use of bona fide veteran organizations subject to the direction of the officer in charge thereof, together with necessary furniture, heat, light and janitor service, and the members of such veteran organizations and their auxiliaries shall have access to said room and the use thereof at all times: *Provided, further*, That any bona fide veterans' organization may be permitted the use of any state armory for athletic and social events at such times as any such armory shall not be required for the use of units of the organized militia, without the payment of rent, but the adjutant general may require such veterans' organization to pay the cost of heating, lighting or other miscellaneous expenses incidental to such use: *Provided, also*, The adjutant general may, during an emergency, permit transient lodging of service personnel in armories: *Provided further*, That any

civilian rifle club affiliated with the National Rifle Association of America shall be permitted to use the rifle range in such armories at least one night each week under regulations prescribed by the adjutant general: *Provided, also*, That state owned armories shall be available, at the discretion of the adjutant general, for use for casual civic purposes, amateur and professional sports and theatricals upon payment of fixed rental charges and compliance with regulations of the state military department: *Provided, however*, That children attending primary and high schools shall have a preferential right to use said armories. The adjutant general shall cause to be prepared a schedule of rental charges for each state owned armory which may not be waived except for activities of units of the organized militia, and no state owned armory shall be rented for a term longer than that which intervenes between regularly authorized formations of units of the organized militia using such armory. The revenue derived from armory rentals shall be paid into the state general fund. On and after July 1, 1977, the special fund known as the armory fund is abolished and all moneys remaining in such fund are hereby transferred to the state general fund. [1975 1st ex.s. c 121 § 1; 1973 1st ex.s. c 154 § 56; 1963 c 149 § 1; 1949 c 125 § 1; 1947 c 204 § 1; 1943 c 130 § 93; Rem. Supp. 1949 § 8603-93. Prior: 1923 c 49 § 5; 1917 c 8 § 1; 1909 c 134 § 97; 1907 c 55 § 11; 1903 c 115 §§ 19, 20.]

Effective date—1975 1st ex.s. c 121: "The effective date of this act shall be July 1, 1977." [1975 1st ex.s. c 121 § 2.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Special acts relating to armories: The following special or temporary acts relating to particular armories are not codified herein:

- (1) 1959 c 181; 1961 c 135; 1963 c 146, Seattle
- (2) 1967 c 37, Prosser
- (3) 1967 c 43, Centralia
- (4) 1967 c 44, Chewelah
- (5) 1967 c 214, Stevens County
- (6) 1967 c 224, Tacoma and Pierce County
- (7) 1967 c 226, Yakima
- (8) 1969 ex.s. c 22, Kirkland.

Chapter 38.52

EMERGENCY SERVICES

Sections

38.52.010 Definitions.

38.52.020 Declaration of policy and purpose.

38.52.030 Department of emergency services created—Director, powers and duties—Communications coordinating committee—State coordinator of search and rescue operations—State program for emergency assistance.

38.52.010 Definitions. As used in this chapter:

(1) "Emergency services" means the preparation for and the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to minimize and repair injury and damage, and to aid victims suffering from damage, resulting from disasters caused by enemy attack, sabotage, or other hostile action, or by fire, flood, storm, earthquake, or other natural causes, and to provide support for search and rescue operations for persons and property

in distress. These functions include, without limitation, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation and for carrying out of the foregoing functions.

(2) "Local organization for emergency services" means an organization created in accordance with the provisions of this chapter by state or local authority to perform local emergency services functions.

(3) "Mobile support unit" means an organization for emergency services created in accordance with the provisions of this chapter by state or local authority to be dispatched by the governor to supplement local organizations for emergency services in stricken areas.

(4) "Political subdivision" means any county, city or town.

(5) "Emergency services worker" means any person who is registered with a state or local emergency services organization and holds an identification card issued by the state or local emergency services director for the purpose of engaging in authorized emergency services or is an employee of the state of Washington or any political subdivision thereof who is called upon to perform emergency services.

(6) "Injury" as used in this chapter shall mean and include accidental injuries and/or occupational diseases arising out of emergency services.

(7) "Disaster" as used in this chapter shall mean events, arising out of either enemy attack, sabotage, or other hostile action, or natural causes, which reach such a dimension or degree of destructiveness as to warrant the governor declaring a state of emergency pursuant to RCW 43.06.010. [1975 1st ex.s. c 113 § 1; 1974 ex.s. c 171 § 4; 1967 c 203 § 1; 1953 c 223 § 2; 1951 c 178 § 3.]

Executive head, executive heads, defined: RCW 38.52.070.

38.52.020 Declaration of policy and purpose. (1) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, or from fire, flood, storm, earthquake, or other natural causes, and in order to insure that preparations of this state will be adequate to deal with such disasters, to insure the administration of state and federal programs providing disaster relief to individuals, and further to insure adequate support for search and rescue operations, and generally to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

(a) To create a state department of emergency services, and to authorize the creation of local organizations for emergency services in the political subdivisions of the state;

(b) To confer upon the governor and upon the executive heads of the political subdivisions of the state the emergency powers provided herein;

(c) To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of emergency services functions; and

(d) To provide a means of compensating emergency services workers who may suffer any injury as herein defined as a result of participation in emergency services.

(2) It is further declared to be the purpose of this chapter and the policy of the state that all emergency services functions of this state and its political subdivisions be coordinated to the maximum extent with the comparable functions of the federal government including its various departments and agencies of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur. [1975 1st ex.s. c 113 § 2; 1974 ex.s. c 171 § 5; 1967 c 203 § 2; 1953 c 223 § 1; 1951 c 178 § 2.]

38.52.030 Department of emergency services created—Director, powers and duties—Communications coordinating committee—State coordinator of search and rescue operations—State program for emergency assistance. (1) There is hereby created within the executive branch of the state government a department of emergency services and a director of emergency services (hereinafter called the director) who shall be the head thereof. The director shall be appointed by the governor with the advice and consent of the senate; the director shall not hold any other state office; the director shall hold office during the pleasure of the governor, and shall be compensated at the rate established by the governor's advisory committee on salaries and wages.

(2) The director may employ such technical, clerical, stenographic, and other personnel and may make such expenditures within the appropriation therefor, or from other funds made available for purposes of emergency services, as may be necessary to carry out the purposes of this chapter.

(3) The director and other personnel of the department shall be provided with appropriate office space, furniture, equipment, supplies, stationery, and printing in the same manner as provided for personnel of other state agencies.

(4) The director, subject to the direction and control of the governor, shall be the executive head of the department and shall be responsible to the governor for carrying out the program for emergency services of this state. The director shall coordinate the activities of all organizations for emergency services within the state, and shall maintain liaison with and cooperate with emergency services agencies and organizations of other states and of the federal government, and shall have such additional authority, duties, and responsibilities authorized by this chapter, as may be prescribed by the governor.

(5) The director shall appoint a communications coordinating committee consisting of six persons with the director as chairman thereof. Three of the members shall be appointed from qualified, trained and experienced telephone communications administrators or engineers actively engaged in such work within the state of Washington at the time of appointment, and three of the members shall be appointed from qualified, trained and experienced radio communication administrators or engineers actively engaged in such work within the state of Washington at the time of appointment. This committee shall be given full and complete authority over all plans for the direction and control of any communications facilities or functions to be operated or controlled under the provisions of this chapter by the department of emergency services, except supplemental emergency communications facilities under the direction of any local organization for emergency services.

(6) The director shall appoint a state coordinator of search and rescue operations, who shall coordinate those state resources, services and facilities (other than those for which the state director of aeronautics is directly responsible) requested by political subdivisions in support of search and rescue operations, and who shall on request maintain liaison with and coordinate the resources, services, and facilities of political subdivisions when more than one political subdivision is engaged in joint search and rescue operations.

(7) The director, subject to the direction and control of the governor, shall prepare and administer a state program for emergency assistance to individuals within the state who are victims of a disaster caused by enemy attack, sabotage, or other hostile action, or by fire, flood, storms, earthquake, or other natural causes. Such program may be integrated into and coordinated with disaster assistance plans and programs of the federal government which provide to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan for purposes of assistance to individuals affected by a disaster. Further, such program may include, but shall not be limited to, grants, loans, or gifts of services, equipment, supplies, materials, or funds of the state, or any political subdivision thereof, to individuals who, as a result of a disaster, are in need of assistance and who meet standards of eligibility for disaster assistance established by the department of social and health services: *Provided, however,* That nothing herein shall be construed in any manner inconsistent with the provisions of Article VIII, section 5 or section 7 of the Washington state Constitution. [1975 1st ex.s. c 113 § 3; 1973 1st ex.s. c 154 § 58; 1967 c 203 § 3; 1951 c 178 § 4.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Title 39 PUBLIC CONTRACTS AND INDEBTEDNESS

Chapters

- 39.04 Public works.
- 39.08 Contractor's bond.
- 39.23 Purchase of products and services of sheltered workshops, DSHS programs.
- 39.34 Interlocal cooperation act.
- 39.35 Energy conservation in design of public facilities.
- 39.44 Bonds—Form, terms of sale, payment, etc.
- 39.56 Warrants.
- 39.58 Public funds—Deposits and investments—Public depositaries.

Chapter 39.04 PUBLIC WORKS

Sections

- 39.04.020 Plans and specifications—Estimates—Publication—Emergencies:

39.04.020 Plans and specifications—Estimates—Publication—Emergencies. Whenever the state, or any municipality shall determine that any public work is necessary to be done it shall cause plans and/or specifications thereof and an estimate of the cost of such work to be made and filed in the office of the director, supervisor, commissioner, trustee, board or agency having by law the authority to require such work to be done.

If the state, or such municipality shall determine that it is necessary or advisable that such work shall be executed by any means or method other than by contract, and it shall appear by such estimate that the probable cost of executing such work will exceed the sum of twenty-five hundred dollars, then the state or such municipality shall at least fifteen days before beginning work cause such estimate, together with a description of the work, to be published at least once in a legal newspaper of general circulation published in or as near as possible to that part of the county in which such work is to be done: *Provided,* That when any emergency shall require the immediate execution of such public work, upon a finding of the existence of such emergency by the authority having power to direct such public work to be done and duly entered of record, publication of description and estimate may be made within seven days after the commencement of the work. [1975 1st ex.s. c 230 § 2; 1967 c 70 § 1; 1923 c 183 § 2; RRS § 10322-2. Formerly RCW 39.04.020 and 39.04.030.]

Chapter 39.08 CONTRACTOR'S BOND

Sections

- 39.08.010 Bond required—Conditions—Retention of contract amount in lieu of bond.

39.08.010 Bond required—Conditions—Retention of contract amount in lieu of bond. Whenever any board, council, commission, trustees or body acting for the state or any county or municipality or any public body shall contract with any person or corporation to do any work for the state, county or municipality, or other public body, city, town or district, such board,

council, commission, trustees or body shall require the person or persons with whom such contract is made to make, execute and deliver to such board, council, commission, trustees or body a good and sufficient bond, with two or more sureties, or with a surety company as surety, conditioned that such person or persons shall faithfully perform all the provisions of such contract and pay all laborers, mechanics and subcontractors and materialmen, and all persons who shall supply such person or persons, or subcontractors, with provisions and supplies for the carrying on of such work, which bond shall be filed with the county auditor of the county where such work is performed or improvement made, except in cases of cities and towns, in which cases such bond shall be filed with the clerk or comptroller thereof, and any person or persons performing such services or furnishing material to any subcontractor shall have the same right under the provisions of such bond as if such work, services or material was furnished to the original contractor: *Provided, however,* That the provisions of RCW 39.08.010 through 39.08.030 shall not apply to any money loaned or advanced to any such contractor, subcontractor or other person in the performance of any such work: *Provided further,* That on contracts of two thousand dollars or less, the respective public entity may, in lieu of the bond, retain one hundred percent of the contract amount for a period of thirty days after date of final acceptance, or until receipt of all necessary releases from the department of revenue and the department of labor and industries. [1975 1st ex.s. c 278 § 23; 1967 c 70 § 2; 1915 c 28 § 1; 1909 c 207 § 1; RRS § 1159. Prior: 1897 c 44 § 1; 1888 p 15 § 1.]

Construction—Severability—1975 1st ex.s. c 278: See notes following RCW 11.08.160.

Liens for labor, material, taxes on public works—Reserve fund required: RCW 60.28.010.

State highway construction and maintenance, bond and surety requirements: Chapter 47.28 RCW.

Chapter 39.23

PURCHASE OF PRODUCTS AND SERVICES OF SHELTERED WORKSHOPS, DSHS PROGRAMS

Sections

39.23.005	Declaration of intent.
39.23.010	Definitions.
39.23.020	Products and/or services, purchase of—Authorization—Determining fair market price.

39.23.005 Declaration of intent. It is the intent of the legislature to encourage municipalities to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services which operate facilities serving the handicapped and disadvantaged. [1975 c 20 § 1.]

39.23.010 Definitions. As used in RCW 39.23.005 and 39.23.020 the term "sheltered workshops" shall have the meaning ascribed to it by RCW 82.04.385 and "programs of the department of social and health services" shall mean the group training homes and day

training centers defined in RCW 72.33.800 and "municipality" shall have the meaning ascribed to it by RCW 39.04.010. [1975 c 20 § 2.]

39.23.020 Products and/or services, purchase of—Authorization—Determining fair market price. Municipalities are hereby authorized to purchase products and/or services manufactured or provided by sheltered workshops and programs of the department of social and health services. Such purchases shall be at the fair market price of such products and services as determined by a municipality. To determine the fair market price a municipality shall use the last comparable bid on the products and/or services or in the alternative the last price paid for the products and/or services. Upon the establishment of the fair market price as provided for in this section a municipality is hereby empowered to negotiate directly with sheltered workshops or officials in charge of the programs of the department of social and health services for the purchase of the products or services. [1975 c 20 § 3.]

Chapter 39.34

INTERLOCAL COOPERATION ACT

Sections

39.34.020	Definitions.
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39.34.020 Definitions. For the purposes of this chapter, the term "public agency" shall mean any city, town, county, public utility district, irrigation district, port district, fire protection district, school district, air pollution control authority, rural county library districts, intercounty rural library districts, public hospital districts, regional planning agency created by any combination of county and city governments, health department or district, weed control district, county transit authority, Indian tribe recognized as such by the federal government, or metropolitan municipal corporation of this state; any agency of the state government or of the United States; and any political subdivision of another state.

The term "state" shall mean a state of the United States. [1975 1st ex.s. c 115 § 1; 1973 c 34 § 1; 1971 c 33 § 1; 1969 c 88 § 1; 1969 c 40 § 1; 1967 c 239 § 3.]

Chapter 39.35

ENERGY CONSERVATION IN DESIGN OF PUBLIC FACILITIES

Sections

39.35.010	Legislative finding.
39.35.020	Legislative declaration.
39.35.030	Definitions.
39.35.040	Facility design to include life-cycle cost analysis.
39.35.900	Severability—1975 1st ex.s. c 177.

39.35.010 Legislative finding. The legislature hereby finds:

(1) That major publicly owned or leased facilities have a significant impact on our state's consumption of energy;

(2) That energy conservation practices adopted for the design, construction, and utilization of such facilities will have a beneficial effect on our overall supply of energy;

(3) That the cost of the energy consumed by such facilities over the life of the facilities shall be considered in addition to the initial cost of constructing such facilities; and

(4) That the cost of energy is significant and major facility designs shall be based on the total life-cycle cost, including the initial construction cost, and the cost, over the economic life of a major facility, of the energy consumed, and of the operation and maintenance of a major facility as they affect energy consumption. [1975 1st ex.s. c 177 § 1.]

39.35.020 Legislative declaration. The legislature declares that it is the public policy of this state to insure that energy conservation practices are employed in the design of major publicly owned or leased facilities. To this end the legislature authorizes and directs that public agencies analyze the cost of energy consumption of each major facility to be planned and constructed or renovated after September 8, 1975. [1975 1st ex.s. c 177 § 2.]

39.35.030 Definitions. For the purposes of this chapter the following words and phrases shall have the following meanings unless the context clearly requires otherwise:

(1) "Public agency" means every state office, officer, board, commission, committee, bureau, department, and all political subdivisions of the state.

(2) "Major facility" means any publicly owned or leased building having twenty-five thousand square feet or more of usable floor space.

(3) "Initial cost" means the moneys required for the capital construction or renovation of a major facility.

(4) "Renovation" means additions, alterations, or repairs within any twelve month period which exceed fifty percent of the value of a major facility and which will affect any energy system.

(5) "Economic life" means the projected or anticipated useful life of a major facility as expressed by a term of years.

(6) "Life-cycle cost" means the cost of a major facility including its initial cost, the cost of the energy consumed over its economic life, and the energy consumption related cost of its operation and maintenance.

(7) "Life-cycle cost analysis" includes, but is not limited to, the following elements:

(a) The coordination and positioning of a major facility on its physical site;

(b) The amount and type of fenestration employed in a major facility;

(c) The amount of insulation incorporated into the design of a major facility;

(d) The variable occupancy and operating conditions of a major facility; and

(e) An energy-consumption analysis of a major facility.

(8) "Energy systems" means all utilities, including, but not limited to, heating, air-conditioning, ventilating, lighting, and the supplying of domestic hot water.

(9) "Energy-consumption analysis" means the evaluation of all energy systems and components by demand and type of energy including the internal energy load imposed on a major facility by its occupants, equipment, and components, and the external energy load imposed on a major facility by the climatic conditions of its location. An energy consumption analysis of the operation of energy systems of a major facility shall include, but not be limited to, the following elements:

(a) The comparison of three or more system alternatives;

(b) The simulation of each system over the entire range of operation of such facility for a year's operating period; and

(c) The evaluation of the energy consumption of component equipment in each system considering the operation of such components at other than full or rated outputs.

The energy-consumption analysis shall be prepared by a professional engineer or licensed architect who may use computers or such other methods as are capable of producing predictable results. [1975 1st ex.s. c 177 § 3.]

39.35.040 Facility design to include life-cycle cost analysis. On and after September 8, 1975 whenever a public agency determines that any major facility is to be constructed or renovated such agency shall cause to be included in the design phase of such construction or renovation a provision that requires a life-cycle cost analysis to be prepared for such facility. Such analysis shall be approved by the agency prior to the commencement of actual construction or renovation. A public agency may accept the facility design if the agency is satisfied that the life-cycle cost analysis provides for an efficient energy system or systems based on the economic life of the major facility. [1975 1st ex.s. c 177 § 4.]

39.35.900 Severability—1975 1st ex.s. c 177. 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. [1975 1st ex.s. c 177 § 5.]

Chapter 39.44

BONDS—FORM, TERMS OF SALE, PAYMENT, ETC.

Sections

39.44.020 Tax levy for interest and principal.

39.44.020 Tax levy for interest and principal. The officials now or hereafter charged by law with the duty of levying taxes for the payment of said bonds and interest shall, in the manner provided by law, make an annual levy sufficient together with other moneys lawfully available and pledged therefor to meet the payments of

principal and interest on said bonds maturing as herein provided. [1975 1st ex.s. c 188 § 6; 1965 ex.s. c 74 § 2; 1923 c 151 § 2; RRS § 5583-2.]

Severability—1975 1st ex.s. c 188: See RCW 36.94.921.

Chapter 39.56 WARRANTS

Sections

39.56.040 Cancellation of municipal warrants.

39.56.040 Cancellation of municipal warrants. Registered or interest bearing warrants of any municipal corporation not presented within one year of the date of their call, or other warrants not presented within one year of their issue, shall be canceled by passage of a resolution of the governing body of the municipal corporation, and upon notice of the passage of such resolution the auditor of the municipal corporation and the treasurer of the municipal corporation shall transfer all records of such warrants so as to leave the funds as if such warrants had never been drawn. [1975 1st ex.s. c 131 § 1.]

Chapter 39.58 PUBLIC FUNDS—DEPOSITS AND INVESTMENTS—PUBLIC DEPOSITARIES

Sections

39.58.010 Definitions.
39.58.040 General powers of commission.
39.58.050 Collateral for deposits—Segregation—Eligible securities.
39.58.103 Notice to commission of reduced capital, surplus, and profits.
39.58.105 Investigation of bank applying to become public depository—Report.
39.58.108 Newly chartered banks—Requirements to become qualified depository.

39.58.010 Definitions. In this chapter, unless the context otherwise requires:

(1) "Public deposit" means moneys of the state or of any county, city or town, or other political subdivision of the state or any commission, committee, board or officer thereof or any court of the state deposited in any qualified public depository, including moneys held as trustee, agent, or bailee by the state, any county, city or town, or other political subdivision of the state, or any commission, committee, board or office thereof or any court of the state, when deposited in any qualified public depository;

(2) "Qualified public depository" means a state bank or trust company, national banking association, or any branch of a bank engaged in the banking business in this state in accordance with RCW 30.04.300 which is located in this state and which receives or holds public deposits and segregates eligible collateral for public deposits as described in RCW 39.58.050 as now or hereafter amended;

(3) "Loss" means issuance of an order of supervisory authority restraining a qualified public depository from making payments of deposit liabilities or the appointment of a receiver for a qualified public depository;

(4) "Commission" means the Washington public deposit protection commission created under RCW 39.58.030;

(5) "Eligible collateral" means collateral which is eligible as security for public deposits pursuant to applicable state law;

(6) The "maximum liability" of a qualified public depository means a sum equal to five percent of (a) all public deposits held by the qualified public depository on the then most recent call report date, or (b) the average of the balances of said public deposits on the last four immediately preceding reports required pursuant to RCW 39.58.100, whichever amount is greater, less any assessments made under this chapter;

(7) "Public funds available for investment" means such public funds as are in excess of the anticipated cash needs throughout the duration of the contemplated investment period;

(8) "Investment deposits" means bank time deposits and savings deposits of public funds available for investment;

(9) "Treasurer" shall mean the state treasurer, a county treasurer, a city treasurer, a treasurer of any other municipal corporation, and the custodian of any other public funds. [1975 1st ex.s. c 77 § 1; 1973 c 126 § 9; 1969 ex.s. c 193 § 1.]

Reviser's note: Throughout chapter 39.58 RCW the phrase "this 1969 amendatory act" has been changed to "this chapter". "This 1969 amendatory act" [1969 ex.s. c 193] consists of chapter 39.58 RCW, the amendments by 1969 ex.s. c 193 to RCW 35.38.010–35.38.040, 36.29.020, 36.48.010, 36.48.020, 43.85.010, 43.85.030, 43.85.040, 43.85.060, 43.85.070, 43.85.150, 43.85.170, 43.85.190, and to the repeal of RCW 35.38.070–35.38.110, 36.48.030, 36.48.100–36.48.150, 43.85.050, and 43.85.080–43.85.120.

Severability—1969 ex.s. c 193: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of this act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 193 § 32.]

Construction—1969 ex.s. c 193: "Nothing in this act shall be construed so as to impair the obligation of any contract or agreement entered into prior to its effective date." [1969 ex.s. c 193 § 33.]

The foregoing annotations apply to this chapter, the amendments by 1969 ex.s. c 193 to RCW 35.38.010–35.38.040, 36.29.020, 36.48.010, 36.48.020, 43.85.010, 43.85.030, 43.85.040, 43.85.060, 43.85.070, 43.85.150, 43.85.170, 43.85.190, and to the repeal of RCW 35.38.070–35.38.110, 36.48.030, 36.48.100–36.48.150, 43.85.050, and 43.85.080–43.85.120.

City depositories: Chapter 35.38 RCW.

County depositories: Chapter 36.48 RCW.

State depositories: Chapter 43.85 RCW.

39.58.040 General powers of commission. The commission shall have power (1) to make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter; (2) to require any qualified public depository to furnish such information dealing with public deposits and the exact status of its capital, surplus, and undivided profits as the commission shall request. Any public depository which refuses or neglects to give promptly and accurately or to allow verification of any information so requested shall no longer be a qualified public depository and shall be excluded from the right to receive or hold public deposits until such time as the commission shall

acknowledge that such depository has furnished the information requested; (3) to take such action as it deems best for the protection, collection, compromise or settlement of any claim arising in case of loss; (4) to prescribe regulations, subject to this chapter, fixing the requirements for qualification of banks as public depositories, and fixing other terms and conditions consistent with this chapter, under which public deposits may be received and held; (5) to fix the official date on which any loss shall be deemed to have occurred taking into consideration the orders, rules and regulations of supervisory authority as they affect the failure or inability of a qualified public depository to repay public deposits in full; (6) in case loss occurs in more than one qualified public depository, to determine the allocation and time of payment of any sums due to public depositors under this chapter. [1975 1st ex.s. c 77 § 2; 1969 ex.s. c 193 § 4.]

39.58.050 Collateral for deposits—Segregation—Eligible securities. (1) Every qualified public depository shall at all times maintain, segregated from its other assets, eligible collateral in the form of securities enumerated in this section having a value at least equal to its maximum liability under this chapter. Such collateral may be segregated by deposit in the trust department of the depository or in such other manner as the commission approves and shall be clearly designated as security for the benefit of public depositors under this chapter. (2) Securities eligible as collateral shall be valued at face value or market value as determined by the commission. (3) The depository shall have the right to make substitutions of such collateral at any time. (4) The income from the securities which have been segregated as collateral shall belong to the depository bank without restriction.

Each of the following enumerated classes of securities, providing there has been no default in the payment of principal or interest thereon, shall be eligible to qualify as collateral:

(a) Bonds, notes, or other securities constituting direct and general obligations of the United States or the bonds, notes, or other securities constituting the direct and general obligation of any instrumentality of the United States, the interest and principal of which is unconditionally guaranteed by the United States;

(b) (i) Direct and general obligation bonds and warrants of the state of Washington or of any other state of the United States;

(ii) Revenue bonds of this state or any authority, board, commission, committee, or similar agency thereof;

(c) Direct and general obligation bonds and warrants of any city, town, county, school district, port district, or other political subdivision of the state, having the power to levy general taxes, which are payable from general ad valorem taxes;

(d) Bonds issued by public utility districts as authorized under the provisions of Title 54 RCW, as now or hereafter amended;

(e) Bonds of any city of the state of Washington for the payment of which the entire revenues of the city's

water system, power and light system, or both, less maintenance and operating costs, are irrevocably pledged, even though such bonds are not general obligations of such city;

(f) In addition to the securities enumerated in subsections (a) through (e) of this section, every public depository may also segregate such bonds, securities and other obligations as are designated to be authorized security for all public deposits pursuant to RCW 35.58-.510, 35.81.110, 35.82.220, 39.60.030, 39.60.040 and 54.24.120, as now or hereafter amended.

The commission may at any time or times declare any particular security as ineligible to qualify as collateral when in the commission's judgment it is deemed desirable to do so. [1975 1st ex.s. c 77 § 3; 1973 c 126 § 11; 1969 ex.s. c 193 § 5.]

39.58.103 Notice to commission of reduced capital, surplus, and profits. Each public depository shall within five working days of the event notify the commission in writing when the aggregate of the capital, surplus, and undivided profits of such depository has been reduced by an amount equal to or greater than ten percent of the amount shown as the capital accounts on the last report submitted to the commission as required by RCW 39.58.100. [1975 1st ex.s. c 77 § 4.]

39.58.105 Investigation of bank applying to become public depository—Report. The commission may require the state auditor or the supervisor of banking to thoroughly investigate and report to it concerning the condition of any bank which makes application to become a qualified public depository, and may also as often as it deems necessary require such investigation and report concerning the condition of any bank which has been designated as such depository. The expense of any of the foregoing investigations or reports shall be borne by the depository examined. In lieu of such investigation or report, the commission may rely upon information made available to it or the supervisor of banking by the office of the comptroller of the currency, the federal deposit insurance corporation, or the federal reserve board.

The supervisor of banking shall in addition advise the commission of any action the supervisor has directed any qualified public depository to take which would result in a reduction, equal to or greater than ten percent, of the aggregate of the capital, surplus, and undivided profits of such depository. [1975 1st ex.s. c 77 § 5.]

39.58.108 Newly chartered banks—Requirements to become qualified depository. Newly chartered banks in the state of Washington may become qualified depositories upon approval by the commission and segregation of collateral in the manner as set forth in this chapter, and upon compliance with all rules as promulgated by the commission. Until such time as newly chartered depositories have submitted four consecutive reports to the commission as required by RCW 39.58-.100, they shall at all times pledge and segregate eligible