

TITLE 24

CORPORATIONS AND ASSOCIATIONS (NONPROFIT)

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Chapter 24.03

WASHINGTON NONPROFIT CORPORATION ACT

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24.03.005 Definitions. As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a corporation not for profit subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a corporation not for profit organized under laws other than the laws of this state.

(3) "Not for profit corporation" means a corporation no part of the income of which is distributable to its members, directors or officers.

(4) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger.

(5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs

of the corporation irrespective of the name or names by which such rules are designated.

(6) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws.

(7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(8) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs. [1967 c 235 § 2.]

24.03.010 Applicability. The provisions of this chapter relating to domestic corporations shall apply to:

(1) All corporations organized hereunder; and

(2) All not for profit corporations heretofore organized under any act hereby repealed, for a purpose or purposes for which a corporation might be organized under this chapter; and

(3) Any corporation to which this chapter does not otherwise apply, which is authorized to elect, and does elect, in accordance with the provisions of this chapter, as now or hereafter amended, to have the provisions of this chapter apply to it.

The provisions of this chapter relating to foreign corporations shall apply to all foreign not for profit corporations conducting affairs in this state for a purpose or purposes for which a corporation might be organized under this chapter. [1971 ex.s. c 53 § 1; 1967 c 235 § 3.]

Repealer—1967 c 235: RCW 24.03.920.

Savings—1967 c 235: RCW 24.03.905.

24.03.015 Purposes. Corporations may be organized under this chapter for any lawful purpose or purposes, including, without being limited to, any one or more of the following purposes: Charitable; benevolent; eleemosynary; educational; civic; patriotic; political; religious; social; fraternal; literary; cultural; athletic; scientific; agricultural; horticultural; animal husbandry; and professional, commercial, industrial or trade association; but labor unions, cooperative organizations, and organizations subject to any of the provisions of the insurance laws of this state may not be organized under this chapter: *Provided*, That any not for profit corporation heretofore organized under any act hereby repealed and existing for the purpose of providing health care services as defined in RCW 48.44.010(1), as now or hereafter amended, shall continue to be organized under this chapter. [1967 c 235 § 4.]

Repealer—1967 c 235: RCW 24.03.920.

Savings—1967 c 235: RCW 24.03.905.

Agricultural cooperatives: Chapter 24.32 RCW.

Fish marketing act: Chapter 24.36 RCW.

Granges: Chapter 24.28 RCW.

Insurance: Title 48 RCW.

Labor unions: Chapter 49.36 RCW.

24.03.017 Corporation may elect to have chapter apply to it—Procedure. Any corporation organized under any act of the state of Washington for any one or more of the purposes for which a corporation may be

organized under this chapter and for no purpose other than those permitted by this chapter, and to which this chapter does not otherwise apply, may elect to have this chapter and the provisions thereof apply to such corporation. Such corporation may so elect by having a resolution to do so adopted by the governing body of such corporation and by delivering to the secretary of state a statement of election in accordance with this section. Such statement of election shall be executed in duplicate 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 the same, and shall set forth:

(1) The name of the corporation;

(2) The act which created the corporation or pursuant to which it was organized;

(3) That the governing body of the corporation has elected to have this chapter and the provisions thereof apply to said corporation.

Duplicate originals of such statement of election shall be delivered to the secretary of state. If the secretary of state finds that the statement of election conforms to law, he shall, when fees in the same amount as required by this chapter for filing articles of incorporation have been paid, endorse on each of such duplicates the word "filed" and the month, day and year of the filing thereof, shall file one of such duplicate originals in his office, and shall issue a certificate of elective coverage to which he shall affix the other duplicate original.

The certificate of elective coverage together with the duplicate original affixed thereto by the secretary of state shall be returned to the corporation or its representative. Upon the issuance of the certificate of elective coverage, the provisions of this chapter shall apply to said corporation which thereafter shall be subject to and shall have the benefits of this chapter and the provisions thereof as they exist on the date of filing such statement of election and as they may be amended from time to time thereafter, including, without limiting the generality of the foregoing, the power to amend its charter or articles of incorporation, whether or not created by special act of the legislature, delete provisions therefrom and add provisions thereto in any manner and to any extent it may choose to do from time to time so long as its amended articles shall not be inconsistent with the provisions of this chapter. [1971 ex.s. c 53 § 2.]

24.03.020 Incorporators. One or more persons may incorporate a corporation by signing, verifying and delivering articles of incorporation in duplicate to the secretary of state. [1967 c 235 § 5.]

24.03.025 Articles of incorporation. The articles of incorporation shall set forth:

(1) The name of the corporation.

(2) The period of duration.

(3) The purpose or purposes for which the corporation is organized.

(4) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of

the corporation, including any provision for distribution of assets on dissolution or final liquidation.

(5) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.

(6) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(7) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling.

(8) The name of any persons or corporations to whom net assets are to be distributed in the event the corporation is dissolved. [1967 c 235 § 6.]

Amending articles of incorporation: RCW 24.03.160–24.03.180.

Bylaws: RCW 24.03.070.

24.03.030 Limitations. A corporation shall not have or issue shares of stock. No dividend shall be paid and no part of the income of a corporation shall be distributed to its members, directors or officers. A corporation may pay compensation in a reasonable amount to its members, directors or officers for services rendered, may confer benefits upon its members in conformity with its purposes, and upon dissolution or final liquidation may make distributions to its members as permitted by this chapter, and no such payment, benefit or distribution shall be deemed to be a dividend or a distribution of income. [1967 c 235 § 7.]

24.03.035 General powers. Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money to its employees other than its officers and directors.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes; and in time of war to make donations in aid of war activities.

(14) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation, whether for profit or not for profit, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty; but such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any bylaw, agreement, vote of board of directors or members, or otherwise.

(15) To cease its corporate activities and surrender its corporate franchise.

(16) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized. [1967 c 235 § 8.]

Unauthorized assumption of corporate power: RCW 24.03.470.

24.03.040 Defense of ultra vires. No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or

power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(1) In a proceeding by a member or a director against the corporation to enjoin the doing or continuation of unauthorized acts, or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a representative suit, against the officers or directors of the corporation for exceeding their authority.

(3) In a proceeding by the attorney general, as provided in this chapter, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts, or in any other proceeding by the attorney general. [1967 c 235 § 9.]

Dissolution: RCW 24.03.220–24.03.270.

24.03.045 Corporate name. The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation, whether for profit or not for profit, existing under any act of this state, or any foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, or a corporate name reserved or registered as permitted by the laws of this state.

(3) Shall be transliterated into letters of the English alphabet, if it is not in English.

(4) Shall not end with "incorporated," "company" or "corporation" or any abbreviation thereof, but may use "club," "league," "association," "services," "committee," "fund," "society," or any name of like import. [1967 c 235 § 10.]

Corporate name of foreign corporation: RCW 24.03.315.

24.03.050 Registered office and registered agent. Each corporation shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office. The registered agent and registered office shall be designated by duly adopted resolution of the board of directors; and a verified statement of such designation, executed by the president or a vice president of the corporation, together with a copy of the board of directors' designating resolution certified as true by the secretary of the corporation, shall be filed with the secretary of state. [1969 ex.s. c 163 § 1; 1967 c 235 § 11.]

24.03.055 Change of registered office or registered agent. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) The address of its then registered office.

(3) If the address of its registered office be changed, the address to which the registered office is to be changed, including street and number.

(4) The name of its then registered agent.

(5) If its registered agent be changed, the name of its successor registered agent.

(6) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(7) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this chapter, he shall file such statement in his office, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state. [1967 c 235 § 12.]

24.03.060 Service of process on corporation. The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall

be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of the copies thereof to be forwarded by registered mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1967 c 235 § 13.]

24.03.065 Members. A corporation may have one or more classes of members or may have no members. If the corporation has one or more classes of members, the designation of such class or classes, the manner of election or appointment and the qualifications and rights of the members of each class shall be set forth in the articles of incorporation or the bylaws. If the corporation has no members, that fact shall be set forth in the articles of incorporation or the bylaws. A corporation may issue certificates evidencing membership therein. [1967 c 235 § 14.]

24.03.070 Bylaws. The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation. [1967 c 235 § 15.]

24.03.075 Meetings of members. Meetings of members may be held at such place, either within or without this state, as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this state.

An annual meeting of the members shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the members may be called by the president or by the board of directors. Special meetings of the members may also be called by such other officers or persons or number or proportion of members as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members entitled to call a meeting, a special meeting of members may be called by members

having one-twentieth of the votes entitled to be cast at such meeting. [1967 c 235 § 16.]

24.03.080 Notice of members' meetings. Written or printed notice stating the place, day and hour of the annual meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member entitled to vote at such meeting. Notice of regular meetings other than annual shall be made by providing each member with the adopted schedule of regular meetings for the ensuing year at any time after the annual meeting and ten days prior to the next succeeding regular meeting and at any time when requested by a member or by such other notice as may be prescribed by the bylaws. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid. [1969 ex.s. c 115 § 1; 1967 c 235 § 17.]

Waiver of notice: RCW 24.03.460.

24.03.085 Voting. The right of the members, or any class or classes of members, to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation or the bylaws. Unless so limited, enlarged or denied, each member, regardless of class, shall be entitled to one vote on each matter submitted to a vote of members.

A member may vote in person or, if so authorized by the articles of incorporation or the bylaws, may vote by proxy executed in writing by the member or by his duly authorized attorney-in-fact. No proxy shall be valid after eleven months from the date of its execution, unless otherwise provided in the proxy. Where directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

The articles of incorporation or the bylaws may provide that in all elections for directors every member entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates. [1969 ex.s. c 115 § 2; 1967 c 235 § 18.]

Greater voting requirements: RCW 24.03.455.

24.03.090 Quorum. The bylaws may provide the number or percentage of members entitled to vote represented in person or by proxy, or the number or percentage of votes represented in person or by proxy, which shall constitute a quorum at a meeting of members. In the absence of any such provision, members holding one-tenth of the votes entitled to be cast represented in person or by proxy shall constitute a quorum. The vote of a majority of the votes entitled to be cast by the members present or represented by proxy at a meeting at which a quorum is present, shall be necessary for

the adoption of any matter voted upon by the members, unless a greater proportion is required by this chapter, the articles of incorporation or the bylaws. [1967 c 235 § 19.]

Greater voting requirements: RCW 24.03.455.

24.03.095 Board of directors. The affairs of a corporation shall be managed by a board of directors. Directors need not be residents of this state or members of the corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors. [1967 c 235 § 20.]

24.03.100 Number and election of directors. The number of directors of a corporation shall be not less than three. Subject to such limitation, the number of directors shall be fixed by the bylaws, except as to the number of the first 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, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number 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 directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified.

A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation. [1967 c 235 § 21.]

24.03.105 Vacancies. Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office. [1967 c 235 § 22.]

24.03.110 Quorum of directors. A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation,

shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws; but in no event shall a quorum consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this chapter, the articles of incorporation or the bylaws. [1967 c 235 § 23.]

Greater voting requirements: RCW 24.03.455.

24.03.115 Committees. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, in the articles of incorporation or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation: *Provided*, That no such committee shall have the authority of the board of directors in reference to amending, altering or repealing the bylaws; electing, appointing or removing any member of any such committee or any director or officer of the corporation; amending the articles of incorporation; adopting a plan of merger or adopting a plan of consolidation with another corporation; authorizing the sale, lease, exchange or mortgage of all or substantially all of the property and assets of the corporation; authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; adopting a plan for the distribution of the assets of the corporation; or amending, altering or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee. The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law. [1967 c 235 § 24.]

24.03.120 Place and notice of directors' meetings. Meetings of the board of directors, regular or special, may be held either within or without this state, and upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director 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 need be specified in the notice or waiver of notice of such meeting. [1967 c 235 § 25.]

Waiver of notice: RCW 24.03.460.

24.03.125 Officers. The officers of a corporation shall consist of a president, one or more vice presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom

shall be elected or appointed at such time and in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws. [1967 c 235 § 26.]

24.03.130 Removal of officers. Any officer elected or appointed may be removed by the persons authorized to elect or appoint such officer whenever in their judgment the best interests of the corporation will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed. Election or appointment of an officer or agent shall not of itself create contract rights. [1967 c 235 § 27.]

24.03.135 Books and records. Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, board of directors and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members entitled to vote. All books and records of a corporation may be inspected by any member, or his agent or attorney, for any proper purpose at any reasonable time. [1967 c 235 § 28.]

24.03.140 Loans to directors and officers prohibited. No loans shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof. [1967 c 235 § 29.]

24.03.145 Filing of articles of incorporation. Duplicate originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, he shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed" and the month, day, and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of incorporation to which he shall affix the other duplicate original.

The certificate of incorporation together with the duplicate original of the articles of incorporation affixed thereto by the secretary of state, shall be returned to the incorporators or their representative. [1967 c 235 § 30.]

24.03.150 Effect of issuance of certificates of incorporation. Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter, except as against the state in a proceeding to cancel or revoke the certificate of incorporation. [1967 c 235 § 31.]

24.03.155 Organization meetings. After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

A first meeting of the members may be held at the call of the directors, or a majority of them, upon at least three days' notice, for such purposes as shall be stated in the notice of the meeting. [1967 c 235 § 32.]

24.03.160 Right to amend articles of incorporation. A corporation may amend its articles of incorporation, from time to time, in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this chapter. [1967 c 235 § 33.]

24.03.165 Procedure to amend articles of incorporation. Amendments to the articles of incorporation shall be made in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, an amendment shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Any number of amendments may be submitted and voted upon at any one meeting. [1967 c 235 § 34.]

24.03.170 Articles of amendment. The articles of amendment shall be executed in duplicate 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 articles, and shall set forth:

- (1) The name of the corporation.
- (2) The amendment so adopted.
- (3) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto.
- (4) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the amendment was adopted, and a statement of the fact that such amendment received the vote of a majority of the directors in office. [1967 c 235 § 35.]

24.03.175 Effectiveness of amendment. Duplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as in this chapter prescribed:

- (1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.
- (2) File one of such duplicate originals in his office.
- (3) Issue a certificate of amendment to which he shall affix the other duplicate original.

The certificate of amendment, together with the duplicate original of the articles of amendment affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1967 c 235 § 36.]

Fees: RCW 24.03.405, 24.03.410.

24.03.180 Restated articles of incorporation. Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, or any pending action to which such corporation shall be a party, or the existing rights of persons other than members; and, in the event the corporate name shall be changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason. [1967 c 235 § 37.]

24.03.185 Procedure for merger. Any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this chapter.

Each corporation shall adopt a plan of merger setting forth:

- (1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.
- (2) The terms and conditions of the proposed merger.
- (3) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.
- (4) Such other provisions with respect to the proposed merger as are deemed necessary or desirable. [1967 c 235 § 38.]

24.03.190 Procedure for consolidation. Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this chapter.

Each corporation shall adopt a plan of consolidation setting forth:

- (1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.
- (2) The terms and conditions of the proposed consolidation.
- (3) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.
- (4) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable. [1967 c 235 § 39.]

24.03.195 Approval of merger or consolidation. A plan of merger or consolidation shall be adopted in the following manner:

- (1) Where the members of any merging or consolidating corporation have voting rights, the board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan or a summary thereof shall be given to each member entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members present at each such meeting or represented by proxy are entitled to cast.

- (2) Where any merging or consolidating corporation has no members, or no members having voting rights, a plan of merger or consolidation shall be adopted at a meeting of the board of directors of such corporation upon receiving the vote of a majority of the directors in office.

After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation. [1967 c 235 § 40.]

24.03.200 Articles of merger or consolidation. (1) Upon such approval, articles of merger or articles of

consolidation shall be executed in duplicate by each corporation by its president or a vice president and by its secretary or an assistant secretary, and verified by one of the officers of each corporation signing such articles, and shall set forth:

- (a) The plan of merger or the plan of consolidation;
- (b) Where the members of any merging or consolidating corporation have voting rights, then as to each such corporation (i) a statement setting forth the date of the meeting of members at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (ii) a statement that such amendment was adopted by a consent in writing signed by all members entitled to vote with respect thereto;
- (c) Where any merging or consolidating corporation has no members, or no members having voting rights, then as to each such corporation a statement of such fact, the date of the meeting of the board of directors at which the plan was adopted and a statement of the fact that such plan received the vote of a majority of the directors in office.

(2) Duplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as in this chapter prescribed:

- (a) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof;
- (b) File one of such duplicate originals in his office;
- (c) Issue a certificate of merger or a certificate of consolidation to which he shall affix the other duplicate original.

The certificate of merger or certificate of consolidation, together with the duplicate original of the articles of merger or articles of consolidation affixed thereto by the secretary of state, shall be returned to the surviving or new corporation, as the case may be, or its representative. [1967 c 235 § 41.]

24.03.205 Merger or consolidation—Time effected. Upon the issuance of the certificate of merger, or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected. [1967 c 235 § 42.]

24.03.210 Effect of merger or consolidation. When such merger or consolidation has been affected:

(1) The several corporations parties to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(2) The separate existence of all corporations parties to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) Such surviving or new corporation shall have all the rights, privileges, immunities and powers and shall

be subject to all the duties and liabilities of a corporation organized under this chapter.

(4) Such surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, as well of a public as of a private nature, of each of the merging or consolidating corporations; and all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and the title to any real estate, or any interest therein, vested in any of such corporations shall not revert or be in any way impaired by reason of such merger or consolidation.

(5) Such surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. Neither the rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the articles of incorporation of the new corporation. [1967 c 235 § 43.]

24.03.215 Sale, lease, exchange, or mortgage of assets. A sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending such sale, lease, exchange, mortgage, pledge or other disposition and directing that it be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of the corporation shall be given to each member entitled to vote at such meeting, within the time and in the manner provided by this chapter for the giving of notice of meetings of members. At such meeting the members may authorize such sale, lease, exchange, mortgage,

pledge or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor. Such authorization shall require at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast. After such authorization by a vote of members, the board of directors, nevertheless, in its discretion, may abandon such sale, lease, exchange, mortgage, pledge or other disposition of assets, subject to the rights of third parties under any contracts relating thereto, without further action or approval by members.

(2) Where there are no members, or no members having voting rights, a sale, lease, exchange, mortgage, pledge or other disposition of all, or substantially all, the property and assets of a corporation shall be authorized upon receiving the vote of a majority of the directors in office. [1967 c 235 § 44.]

24.03.220 Voluntary dissolution. A corporation may dissolve and wind up its affairs in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the corporation be dissolved, and directing that the question of such dissolution be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of dissolving the corporation, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, the dissolution of the corporation shall be authorized at a meeting of the board of directors upon the adoption of a resolution to dissolve by the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation shall cease to conduct its affairs except in so far as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, and shall proceed to collect its assets and apply and distribute them as provided in this chapter. [1967 c 235 § 45.]

24.03.225 Distribution of assets. The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned,

transferred or conveyed in accordance with such requirements;

(3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving corporation, pursuant to a plan of distribution adopted as provided in this chapter;

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(5) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, as may be specified in a plan of distribution adopted as provided in this chapter. [1967 c 235 § 46.]

24.03.230 Plan of distribution. A plan providing for the distribution of assets, not inconsistent with the provisions of this chapter, may be adopted by a corporation in the process of dissolution and shall be adopted by a corporation for the purpose of authorizing any transfer or conveyance of assets for which this chapter requires a plan of distribution, in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending a plan of distribution and directing the submission thereof to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan of distribution or a summary thereof shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. Such plan of distribution shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, a plan of distribution shall be adopted at a meeting of the board of directors upon receiving a vote of a majority of the directors in office.

If the plan of distribution includes assets received and held by the corporation subject to limitations described in subsection (3) of RCW 24.03.225, notice of the adoption of the proposed plan shall be submitted to the attorney general by registered or certified mail directed to him at his office in Olympia, at least twenty days prior to the meeting at which the proposed plan is to be adopted. No plan for the distribution of such assets may be adopted without the approval of the attorney general, or the approval of a court of competent jurisdiction in a proceeding to which the attorney general is made a party. In the event that an objection is not filed within twenty days after the date of mailing, his approval shall

be deemed to have been given. [1969 ex.s. c 115 § 3; 1967 c 235 § 47.]

24.03.235 Revocation of voluntary dissolution proceedings. A corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke the action theretofore taken to dissolve the corporation, in the following manner:

(1) Where there are members having voting rights, the board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members having voting rights, which may be either an annual or a special meeting. Written or printed notice stating that the purpose, or one of the purposes, of such meeting is to consider the advisability of revoking the voluntary dissolution proceedings, shall be given to each member entitled to vote at such meeting, within the time and in the manner provided in this chapter for the giving of notice of meetings of members. A resolution to revoke the voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members present at such meeting or represented by proxy are entitled to cast.

(2) Where there are no members, or no members having voting rights, a resolution to revoke the voluntary dissolution proceedings shall be adopted at a meeting of the board of directors upon receiving the vote of a majority of the directors in office.

Upon the adoption of such resolution by the members, or by the board of directors where there are no members or no members having voting rights, the corporation may thereupon again conduct its affairs. [1967 c 235 § 48.]

Notice of members' meetings: RCW 24.03.080.

24.03.240 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution shall be executed in duplicate 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, which statement shall set forth:

(1) The name of the corporation.

(2) Where there are members having voting rights, (a) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at such meeting, and that such resolution received at least two-thirds of the votes which members present at such meeting or represented by proxy were entitled to cast, or (b) a statement that such resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto.

(3) Where there are no members, or no members having voting rights, a statement of such fact, the date of the meeting of the board of directors at which the

resolution to dissolve was adopted and a statement of the fact that such resolution received the vote of a majority of the directors in office.

(4) That all debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor.

(5) That all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter.

(6) That there are no suits pending against the corporation in any court, or that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered against it in any pending suit. [1967 c 235 § 49.]

24.03.245 Filing of articles of dissolution. Duplicate originals of such articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of dissolution to which he shall affix the other duplicate original.

The certificate of dissolution, together with the duplicate original of the articles of dissolution affixed thereto by the secretary of state, shall be returned to the representative of the dissolved corporation. Upon the issuance of such certificate of dissolution the existence of the corporation shall cease, except for the purpose of suits, other proceedings and appropriate corporate action by members, directors and officers as provided in this chapter. [1967 c 235 § 50.]

24.03.250 Involuntary dissolution. A corporation may be dissolved involuntarily by a decree of the superior court in an action filed by the attorney general when it is established that:

(1) The corporation procured its articles of incorporation through fraud; or

(2) The corporation has continued to exceed or abuse the authority conferred upon it by law. [1969 ex.s. c 163 § 2; 1967 c 235 § 51.]

Filing annual report: RCW 24.03.400.

24.03.255 Notification to attorney general. The secretary of state shall certify, from time to time, the names of all corporations which have given cause for dissolution as provided in this chapter, together with the facts pertinent thereto. Whenever the secretary of state shall certify the name of a corporation to the attorney general as having given any cause for dissolution, the secretary of state shall concurrently mail to the corporation at its registered office a notice that such certification has been made. Upon the receipt of such certification, the attorney general shall file an action in the name of the state against such corporation for its dissolution. [1969 ex.s. c 163 § 3; 1967 c 235 § 52.]

24.03.260 Venue and process. Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general either in the superior court of the county in which the registered office of the corporation is situated, or in the superior court of Thurston county. Summons shall issue and be served as in other civil actions. If process is returned not found, the attorney general shall cause publication to be made as in other civil cases in some newspaper published in the county where the registered office of the corporation is situated, containing a notice of the pendency of such action, the title of the court, the title of the action, and the date on or after which default may be entered. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same court. The attorney general shall cause a copy of such notice to be mailed to the corporation at its registered office within ten days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned. Unless a corporation shall have been served with summons, no default shall be taken against it earlier than thirty days after the first publication of such notice. [1967 c 235 § 53.]

24.03.265 Jurisdiction of court to liquidate assets and affairs of corporation. Superior courts shall have full power to liquidate the assets and affairs of a corporation:

(1) In an action by a member or director when it is made to appear:

(a) That the directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and either that the members are unable to break the deadlock or there are no members having voting rights; or

(b) That the acts of the directors or those in control of the corporation are illegal, oppressive or fraudulent; or

(c) That the corporate assets are being misapplied or wasted; or

(d) That the corporation is unable to carry out its purposes.

(2) In an action by a creditor:

(a) When the claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied and it is established that the corporation is insolvent; or

(b) When the corporation has admitted in writing that the claim of the creditor is due and owing and it is established that the corporation is insolvent.

(3) Upon application by a corporation to have its dissolution continued under the supervision of the court.

(4) When an action has been filed by the attorney general to dissolve a corporation and it is established that liquidation of its affairs should precede the entry of a decree of dissolution.

Proceedings under subsections (1), (2), or (3) of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make directors or members parties to any such action or proceedings unless relief is sought against them personally. [1967 c 235 § 54.]

24.03.270 Procedure in liquidation of corporation by court. In proceedings to liquidate the assets and affairs of a corporation the court shall have the power to issue injunctions, to appoint a receiver or receivers pendente lite, with such powers and duties as the court, from time to time, may direct, and to take such other proceedings as may be requisite to preserve the corporate assets wherever situated, and carry on the affairs of the corporation until a full hearing can be had.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the corporation. Such liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such liquidating receiver or receivers shall state their powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

The assets of the corporation or the proceeds resulting from the sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(1) All costs and expenses of the court proceedings and all liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision shall be made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred or conveyed in accordance with such requirements;

(3) Assets received and held by the corporation subject to limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational or similar purposes, but not held upon a condition requiring return, transfer or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one or more domestic or foreign corporations, societies or organizations engaged in activities substantially similar to those of the dissolving or liquidating corporation as the court may direct;

(4) Other assets, if any, shall be distributed in accordance with the provisions of the articles of incorporation or the bylaws to the extent that the articles of incorporation or bylaws determine the distributive rights of members, or any class or classes of members, or provide for distribution to others;

(5) Any remaining assets may be distributed to such persons, societies, organizations or domestic or foreign corporations, whether for profit or not for profit, specified in the plan of distribution adopted as provided in

this chapter, or where no plan of distribution has been adopted, as the court may direct.

The court shall have power to allow, from time to time, as expenses of the liquidation compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the corporation or the proceeds of any sale or disposition of such assets.

A receiver of a corporation appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated. [1967 c 235 § 55.]

24.03.275 Qualification of receivers—Bond. A receiver shall in all cases be a citizen of the United States or a corporation for profit authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require. [1967 c 235 § 56.]

24.03.280 Filing of claims in liquidation proceedings. In proceedings to liquidate the assets and affairs of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation. [1967 c 235 § 57.]

24.03.285 Discontinuance of liquidation proceedings. The liquidation of the assets and affairs of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets. [1967 c 235 § 58.]

24.03.290 Decree of involuntary dissolution. In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of this chapter, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go

to their payment, the court shall enter a decree dissolving the corporation, whereupon the existence of the corporation shall cease. [1967 c 235 § 59.]

24.03.295 Filing of decree of dissolution. In case the court shall enter a decree dissolving a corporation, it shall be the duty of the clerk of such court to cause a certified copy of the decree to be filed with the secretary of state. No fee shall be charged by the secretary of state for the filing thereof. [1967 c 235 § 60.]

24.03.300 Survival of remedy after dissolution. The dissolution of a corporation either (1) by the issuance of a certificate of dissolution by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, or members, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years after the date of such dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name. The members, directors and officers shall have power to take such corporate or other action as shall be appropriate to protect such remedy, right or claim. If such corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during such period of two years so as to extend its period of duration. [1967 c 235 § 61.]

24.03.302 Grounds for corporation ceasing to exist—Notice—Reinstatement—Survival of actions. When a corporation:

(1) Has failed to file its annual report within the time required by *this 1969 amendatory act; or

(2) Has failed for ninety days to appoint or maintain a registered agent in this state; or

(3) Has failed for ninety days, after change of its registered agent, to file in the office of the secretary of state a statement of such change; the secretary of state shall notify the corporation by first class mail that it shall cease to exist if it does not perform the required act within thirty days. If the corporation fails to perform within thirty days following receipt of the letter, it shall automatically cease to exist.

A corporation which has ceased to exist by operation of this section may be reinstated within a period of three years following its dissolution by operation of law if it shall file its annual report or if it shall appoint or maintain a registered agent, or if it shall file with the secretary of state a required statement of change of registered agent and in addition, if it shall pay a reinstatement fee of five dollars plus any other fees that may be due and owing the secretary of 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 24.03.300 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 members. [1971 ex.s. c 128 § 1; 1969 ex.s. c 163 § 9.]

*Reviser's note: "this 1969 amendatory act", see note following RCW 24.03.915.

24.03.305 Admission of foreign corporation. No foreign corporation shall have the right to conduct affairs in this state until it shall have procured a certificate of authority so to do from the secretary of state. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any affairs which a corporation organized under this chapter is not permitted to conduct. A foreign corporation shall not be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state, and nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

Without excluding other activities which may not constitute conducting affairs in this state, a foreign corporation shall not be considered to be conducting affairs in this state, for the purposes of this chapter, by reason of carrying on in this state any one or more of the following activities:

(1) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes.

(2) Holding meetings of its directors or members or carrying on other activities concerning its internal affairs.

(3) Maintaining bank accounts.

(4) Creating evidences of debt, mortgages or liens on real or personal property.

(5) Securing or collecting debts due to it or enforcing any rights in property securing the same. [1967 c 235 § 62.]

24.03.310 Powers of foreign corporation. A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same, but no greater, rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authorization is issued; and, except as in this chapter otherwise provided, shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character. [1967 c 235 § 63.]

24.03.315 Corporate name of foreign corporation. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of RCW 24.03.045. [1967 c 235 § 64.]

24.03.320 Change of name by foreign corporation. Whenever a foreign corporation which is authorized to conduct affairs in this state shall change its name to one

under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter conduct any affairs in this state until it has changed its name to a name which is available to it under the laws of this state. [1967 c 235 § 65.]

24.03.325 Application for certificate of authority. A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) The date of incorporation and the period of duration of the corporation.

(3) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(4) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.

(5) The purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state. [1967 c 235 § 66.]

24.03.330 Filing of application for certificate of authority. Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state together with a copy of its articles of incorporation and all amendments thereto, duly certified by the proper officer of the state or country under the laws of which it is incorporated.

If the secretary of state finds that such application conforms to law, he shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such documents the word "Filed," and the month, day and year of the filing thereof.

(2) File in his office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state to which he shall affix the other duplicate original application.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1969 ex.s. c 163 § 4; 1967 c 235 § 67.]

24.03.335 Effect of certificate of authority. Upon the issuance of a certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its

application, subject, however, to the right of this state to suspend or to revoke such authority as provided in this chapter. [1967 c 235 § 68.]

24.03.340 Registered office and registered agent of foreign corporation. Each foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation, whether for profit or not for profit, or a foreign corporation, whether for profit or not for profit, authorized to transact business or conduct affairs in this state, having an office identical with such registered office. [1967 c 235 § 69.]

24.03.345 Change of registered office or registered agent of foreign corporation. A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) The address of its then registered office.

(3) If the address of its registered office be changed, the address to which the registered office is to be changed.

(4) The name of its then registered agent.

(5) If its registered agent be changed, the name of its successor registered agent.

(6) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(7) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this chapter, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state who shall forthwith mail a copy thereof to the foreign corporation at its principal office in the state or country under the laws of which it is incorporated as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state. [1967 c 235 § 70.]

24.03.350 Service of process on foreign corporation. The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom any process,

notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of such copies thereof to be forwarded by registered mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1967 c 235 § 71.]

24.03.355 Amendment to articles of incorporation of foreign corporation. Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in this state are amended, such foreign corporation shall, within thirty days after such amendment becomes effective, file in the office of the secretary of state a copy of such amendment duly authenticated by the proper officer of the state or country under the laws of which it is incorporated; but the filing thereof shall not of itself enlarge or alter the purpose or purposes for which such corporation is authorized to pursue in conducting its affairs in this state, nor authorize such corporation to conduct affairs in this state under any other name than the name set forth in its certificate of authority. [1967 c 235 § 72.]

24.03.360 Merger of foreign corporation authorized to conduct affairs in this state. Whenever a foreign corporation authorized to conduct affairs in this state shall be a party to a statutory merger permitted by the laws of the state or country under the laws of which it is incorporated, and such corporation shall be the surviving corporation, it shall, within thirty days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly authenticated by the proper officer of the state or country under the laws of which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to conduct

affairs in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to pursue in this state. [1967 c 235 § 73.]

Purposes: See RCW 24.03.015.

24.03.365 Amended certificate of authority. A foreign corporation authorized to conduct affairs in this state shall procure an amended certificate of authority in the event it changes its corporate name, or desires to pursue in this state other or additional purposes than those set forth in its prior application for a certificate of authority, by making application therefor to the secretary of state.

The requirements in respect to the form and contents of such application, the manner of its execution, the filing of duplicate originals thereof with the secretary of state, the issuance of an amended certificate of authority and the effect thereof, shall be the same as in the case of an original application for a certificate of authority. [1967 c 235 § 74.]

24.03.370 Withdrawal of foreign corporation. A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, such foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) That the corporation is not conducting affairs in this state.

(3) That the corporation surrenders its authority to conduct affairs in this state.

(4) That the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on such corporation by service thereof on the secretary of state.

(5) A post office address to which the secretary of state may mail a copy of any process against the corporation that may be served on him.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed 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 the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee and verified by him. [1967 c 235 § 75.]

24.03.375 Filing of application for withdrawal. Duplicate originals of such application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the

provisions of this chapter, he shall, when all fees have been paid as in this chapter prescribed:

(1) Endorse on each of such duplicate originals the word "Filed," and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of withdrawal to which he shall affix the other duplicate original.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the issuance of such certificate of withdrawal, the authority of the corporation to conduct affairs in this state shall cease. [1967 c 235 § 76.]

Fees: See RCW 24.03.405.

24.03.380 Revocation of certificate of authority. The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

(1) The corporation has failed to file its annual report within the time required by this chapter, or has failed to pay any fees or penalties prescribed by this chapter when they have become due and payable; or

(2) The corporation has failed to appoint and maintain a registered agent in this state as required by this chapter; or

(3) The corporation has failed, after change of its registered agent, to file in the office of the secretary of state a statement of such change as required by this chapter; or

(4) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or

(5) The certificate of authority of the corporation was procured through fraud practiced upon the state; or

(6) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(7) A misrepresentation has been made of any material matter in any application, report, affidavit, or other document submitted by such corporation pursuant to this chapter.

No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless he shall have given the corporation not less than sixty days' notice thereof by mail addressed to its registered office in this state, and the corporation shall fail prior to revocation to file such annual report, or pay such fees or penalties, or file the required statement of change of registered agent, or file such articles of amendment or articles of merger, or correct such misrepresentation. [1967 c 235 § 77.]

24.03.385 Issuance of certificate of revocation. Upon revoking any such certificate of authority, the secretary of state shall:

(1) Issue a certificate of revocation in duplicate.

(2) File one of such certificates in his office.

(3) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of such certificates.

Upon the issuance of such certificate of revocation, the authority of the corporation to conduct affairs in this state shall cease. [1967 c 235 § 78.]

24.03.390 Conducting affairs without certificate of authority. No foreign corporation which is conducting affairs in this state without a certificate of authority shall be permitted to maintain any action, suit or proceeding in any court of this state until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim or demand arising out of the conduct of affairs by such corporation in this state, until a certificate of authority shall have been obtained by such corporation or by a corporation which has acquired all or substantially all of its assets.

The failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not impair the validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state. [1967 c 235 § 79.]

24.03.395 Annual report of domestic and foreign corporations. Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report setting forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) The address of the registered office of the corporation in this state including street and number and the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under the laws of which it is incorporated.

(3) A brief statement of the character of the affairs which the corporation is actually conducting, or, in the case of a foreign corporation, which the corporation is actually conducting in this state.

(4) The names and respective addresses of the directors and officers of the corporation.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by its president, a vice president, secretary, an assistant secretary, or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed on behalf of the corporation and verified by such receiver or trustee. [1967 c 235 § 80.]

24.03.400 Filing of annual report of domestic and foreign corporations. Such annual report of a domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year, except that the first annual report of a domestic or foreign corporation shall be filed between the first day of January and the first day of

March of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. Proof to the satisfaction of the secretary of state that prior to the first day of March such report was deposited in the United States mail in a sealed envelope, properly addressed, with postage prepaid, shall be deemed a compliance with this requirement. If the secretary of state finds that such report substantially conforms to the requirements of this chapter, he shall file the same. [1973 c 90 § 1; 1967 c 235 § 81.]

24.03.405 Fees for filing documents and issuing certificates. The secretary of state shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.

(2) Filing articles of amendment and issuing a certificate of amendment, ten dollars.

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.

(4) Filing a statement of change of address of registered office or change of registered agent, or both, one dollar.

(5) Filing articles of dissolution, five dollars.

(6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, five dollars.

(8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(10) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars.

(11) Filing a certificate by a foreign corporation of the appointment of a registered agent, one dollar.

(12) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent, one dollar.

(13) Filing any other statement or report, including an annual report, of a domestic or foreign corporation, one dollar. [1969 ex.s. c 163 § 5; 1967 c 235 § 82.]

24.03.410 Miscellaneous charges. The secretary of state shall charge and collect:

(1) For furnishing a certified copy of any document, instrument, or paper relating to a corporation, fifty cents per page and two dollars for the certificate and affixing the seal thereto.

(2) At the time of any service of process on him as registered agent of a corporation, two dollars, which amount may be recovered as taxable costs by the party to the suit or action causing such service to be made if

such party prevails in the suit or action. [1969 ex.s. c 163 § 6; 1967 c 235 § 83.]

24.03.415 Disposition of fees. Any money received by the secretary of state under the provisions of this chapter shall be by him paid into the state treasury as provided by law. [1967 c 235 § 84.]

State officers—Daily remittance of moneys to treasury: RCW 43.01.050.

24.03.420 Penalties imposed upon corporation. Each corporation, domestic or foreign, that fails or refuses to answer truthfully and fully within the time prescribed by this chapter interrogatories propounded by the secretary of state in accordance with the provisions of this chapter, shall be deemed to be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding five hundred dollars. [1969 ex.s. c 163 § 7; 1967 c 235 § 85.]

Filing of annual report of domestic and foreign corporations: RCW 24.03.400.

24.03.425 Penalties imposed upon directors and officers. Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter to answer truthfully and fully interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application or other document filed with the secretary of state which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof may be fined in any amount not exceeding five hundred dollars. [1967 c 235 § 86.]

24.03.430 Interrogatories by secretary of state. The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof, such interrogatories as may be reasonably necessary and proper to enable him to ascertain whether such corporation has complied with all the provisions of this chapter applicable to such corporation. Such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete and shall be made in writing and under oath. If such interrogatories be directed to an individual they shall be answered by him, and if directed to a corporation they shall be answered by the president, vice president, secretary or assistant secretary thereof. The secretary of state need not file any document to which such interrogatories relate until such interrogatories be answered as herein provided, and not then if the answers thereto disclose that such document is not in conformity with the provisions of this chapter. The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter. The provisions of

this section shall not apply to a domestic or foreign corporation which, by declaration, order or ruling of the Internal Revenue Service of the United States government is exempt from the obligation to file income tax return. [1967 c 235 § 87.]

24.03.435 Confidential nature of information disclosed by interrogatories. Interrogatories propounded by the secretary of state and the answers thereto shall not be open to public inspection nor shall the secretary of state disclose any facts or information obtained therefrom except in so far as his official duty may require the same to be made public or in the event such interrogatories or the answers thereto are required for evidence in any criminal proceedings or in any other action by this state. [1967 c 235 § 88.]

24.03.440 Powers of secretary of state. The secretary of state shall have the power and authority reasonably necessary to enable him to administer this chapter efficiently and to perform the duties therein imposed upon him. [1967 c 235 § 89.]

24.03.445 Appeal from secretary of state. If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation or dissolution, or any other document required by this chapter to be approved by the secretary of state before the same shall be filed in his office, he shall, within ten days after the delivery thereof to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. From such disapproval such person or corporation may appeal to the superior court of the county in which the registered office of such corporation is, or is proposed to be, situated by filing with the clerk of such court a petition setting forth a copy of the articles or other document sought to be filed and a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, pursuant to the provisions of this chapter, such foreign corporation may likewise appeal to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be tried de novo by the court, and the court shall either sustain the action of the secretary of state or direct him to take such action as the court may deem proper.

Appeals from all final orders and judgments entered by the superior court under this section in review of any ruling or decision of the secretary of state may be taken as in other civil actions. [1967 c 235 § 90.]

24.03.450 Certificates and certified copies to be received in evidence. All certificates issued by the secretary of state in accordance with the provisions of this chapter, and all copies of documents filed in his office in accordance with the provisions of this chapter when certified by him, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the great seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated. [1967 c 235 § 91.]

24.03.455 Greater voting requirements. Whenever, with respect to any action to be taken by the members or directors of a corporation, the articles of incorporation require the vote or concurrence of a greater proportion of the members or directors, as the case may be, than required by this chapter with respect to such action, the provisions of the articles of incorporation shall control. [1967 c 235 § 92.]

24.03.460 Waiver of notice. Whenever any notice is required to be given to any member or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be equivalent to the giving of such notice. [1967 c 235 § 93.]

24.03.465 Action by members or directors without a meeting. Any action required by this chapter to be taken at a meeting of the members or directors of a corporation, or any action which may be taken at a meeting of the members or directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the members entitled to vote with respect to the subject matter thereof, or all of the directors, as the case may be.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the secretary of state under this chapter. [1967 c 235 § 94.]

24.03.470 Unauthorized assumption of corporate powers. All persons who assume to act as a corporation without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof. [1967 c 235 § 95.]

24.03.900 Short title. This chapter shall be known and may be cited as the "Washington nonprofit corporation act." [1967 c 235 § 1.]

24.03.905 Savings—1967 c 235. Any corporation existing on the date when this chapter takes effect shall continue to exist as a corporation despite any provision

of this chapter changing the requirements for forming a corporation or repealing or amending the law under which it was formed. The provisions of this chapter shall, however, apply prospectively to the fullest extent permitted by the Constitutions of the United States and the state of Washington to all existing corporations organized under any general act of the territory or the state of Washington providing for the organization of corporations for a purpose or purposes for which a corporation might be organized under this chapter. The repeal of any prior act or part thereof by this chapter shall not affect any right accrued or any liability or penalty incurred, under the provisions of such act, prior to the repeal thereof. The repeal of a prior act or acts by this chapter shall not affect any existing corporation organized for a purpose or purposes other than those for which a corporation might be organized under this chapter. [1967 c 235 § 96.]

Effective date of this chapter is July 1, 1969: RCW 24.03.925.

24.03.910 Severability—1967 c 235. If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section or part of this chapter, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this chapter, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this chapter so adjudged to be invalid or unconstitutional. [1967 c 235 § 97.]

24.03.915 Notice to existing corporations. The secretary of state shall notify all existing nonprofit corporations thirty days prior to the effective date of this chapter, that in the event they fail to appoint a registered agent as provided in *this 1969 amendatory act within ninety days following the effective date of *this 1969 amendatory act, they shall thereupon cease to exist.

Corporations so dissolved by operation of law may be reinstated as provided elsewhere in *this 1969 amendatory act. [1969 ex.s. c 163 § 8; 1967 c 235 § 98.]

***Reviser's note:** "this 1969 amendatory act" consists of RCW 24.03.302 and the 1969 amendments to RCW 24.03.050, 24.03.250, 24.03.255, 24.03.330, 24.03.405, 24.03.410, 24.03.420, 24.03.915.

Effective date—1969 ex.s. c 163: August 11, 1969, see preface to 1969 session laws.

Effective date—1967 c 235: July 1, 1969, see RCW 24.03.925.

24.03.920 Repealer—Exception. The following acts or parts of acts, except insofar as may be applicable to the rights, powers and duties of persons and corporations not subject to the provisions of this chapter, are hereby repealed:

- (1) Chapter 110, Laws of 1961;
- (2) Section 6, chapter 12, Laws of 1959;
- (3) Section 3, chapter 263, Laws of 1959;
- (4) Chapter 32, Laws of 1955;
- (5) Chapter 121, Laws of 1953;
- (6) Chapter 249, Laws of 1947;
- (7) Chapter 122, Laws of 1943;
- (8) Chapter 89, Laws of 1933;

(9) Section 2, chapter 63, Laws of 1925 extraordinary session;

(10) Chapter 8, Laws of 1923;

(11) Chapter 75, Laws of 1907;

(12) Chapter 134, Laws of 1907;

(13) Chapter 125, Laws of 1905;

(14) Page 24, chapter XIX (19), Laws of 1895;

(15) Page 348, chapter CXXXV (135), Laws of 1895;

(16) Chapter CLVIII (158), Laws of 1895;

(17) Section 1, page 86, Laws of 1886;

(18) Sections 2450 through 2454, Code of 1881;

(19) Pages 409 through 411, Laws of 1873;

(20) Pages 341 and 342, Laws of 1869;

(21) Pages 67 and 68, Laws of 1866; and

(22) RCW sections 24.01.010, 24.04.010 through 24.04.170, 24.08.010 through 24.08.900, and 24.16.010 through 24.16.140. [1967 c 235 § 100.]

24.03.925 Effective date—1967 c 235. This chapter shall become effective July 1, 1969. [1967 c 235 § 99.]

Chapter 24.06 MISCELLANEOUS AND MUTUAL CORPORATIONS ACT

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24.06.005 Definitions. As used in this chapter, unless the context otherwise requires, the term:

(1) "Corporation" or "domestic corporation" means a mutual corporation or miscellaneous corporation subject to the provisions of this chapter, except a foreign corporation.

(2) "Foreign corporation" means a mutual or miscellaneous corporation or other corporation organized under laws other than the laws of this state which would be subject to the provisions of this chapter if organized under the laws of this state.

(3) "Mutual corporation" means a corporation organized to accomplish one or more of its purposes on a mutual basis for members and other persons.

(4) "Miscellaneous corporation" means any corporation which is organized for a purpose or in a manner not provided for by the Washington business corporation act or by the Washington nonprofit corporation act, and which is not required to be organized under other laws of this state.

(5) "Articles of incorporation" includes the original articles of incorporation and all amendments thereto, and includes articles of merger.

(6) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated.

(7) "Member" means one having membership rights in a corporation in accordance with provisions of its articles of incorporation or bylaws.

(8) "Stock" or "share" means the units into which the proprietary interests of a corporation are divided in a corporation organized with stock.

(9) "Stockholder" or "shareholder" means one who is a holder of record of one or more shares in a corporation organized with stock.

(10) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which such group is designated.

(11) "Insolvent" means inability of a corporation to pay debts as they become due in the usual course of its affairs. [1969 ex.s. c 120 § 1.]

24.06.010 Application of chapter. The provisions of this chapter relating to domestic corporations shall apply to:

- (1) All corporations organized hereunder; and
- (2) All corporations which were heretofore organized under any act repealed by the Washington nonprofit corporation act and which are not organized for a purpose or in a manner provided for by said act.

The provisions of this chapter relating to foreign corporations shall apply to all foreign corporations conducting affairs in this state for a purpose or purposes for

which a corporation might be organized under this chapter. [1969 ex.s. c 120 § 2.]

24.06.015 Purposes. Corporations may be organized under this chapter for any lawful purpose including but not limited to mutual, social, cooperative, fraternal, beneficial, service, labor organization, and other purposes; but excluding purposes which by law are restricted to corporations organized under other statutes. [1969 ex.s. c 120 § 3.]

Labor unions: Chapter 49.36 RCW.

24.06.020 Incorporators. One or more individuals, partnerships, corporations or governmental bodies or agencies may incorporate a corporation by signing, verifying and delivering articles of incorporation in triplicate to the secretary of state. [1969 ex.s. c 120 § 4.]

24.06.025 Articles of incorporation. The articles of incorporation shall set forth:

- (1) The name of the corporation.
- (2) The period of duration.
- (3) The purpose or purposes for which the corporation is organized.
- (4) The qualifications and the rights and responsibilities of the members and the manner of their election, appointment or admission to membership and termination of membership; and, if there is more than one class of members or if the members of any one class are not equal, the relative rights and responsibilities of each class or each member.
- (5) If the corporation is to have capital stock:
 - (a) The aggregate number of shares which the corporation shall have authority to issue; if such shares are to consist of one class only, the par value of each of such shares, or a statement that all of such shares are without par value; or, if such shares are to be divided into classes, the number of shares of each class, and a statement of the par value of the shares of each such class or that such shares are to be without par value;
 - (b) If the shares are to be divided into classes, the designation of each class and a statement of the preferences, limitations and relative rights in respect of the shares of each class;
 - (c) If the corporation is to issue the shares of any preferred or special class in series, then the designation of each series and a statement of the variations in the relative rights and preferences as between series insofar as the same are to be fixed in the articles of incorporation, and a statement of any authority to be vested in the board of directors to establish series and fix and determine the variations in the relative rights and preferences as between series;
 - (d) Any provision limiting or denying to shareholders the preemptive right to acquire additional shares of the corporation.
 - (e) If the corporation is to distribute surplus funds to its members, stockholders or other persons, provisions for determining the amount and time of the distribution.
 - (f) Provisions for distribution of assets on dissolution or final liquidation.

(8) Whether a dissenting shareholder or member shall be limited to a return of less than the fair value of his shares or membership.

(9) Any provisions, not inconsistent with law, which the incorporators elect to set forth in the articles of incorporation for the regulation of the internal affairs of the corporation.

(10) The address of its initial registered office, including street and number, and the name of its initial registered agent at such address.

(11) The number of directors constituting the initial board of directors, and the names and addresses of the persons who are to serve as the initial directors.

(12) The name and address of each incorporator.

It shall not be necessary to set forth in the articles of incorporation any of the corporate powers enumerated in this chapter.

Unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment to the articles of incorporation, a change in the number of directors made by amendment to the bylaws shall be controlling. In all other cases, whenever a provision of the articles of incorporation is inconsistent with a bylaw, the provision of the articles of incorporation shall be controlling. [1969 ex.s. c 120 § 5.]

24.06.030 General powers. Each corporation shall have power:

(1) To have perpetual succession by its corporate name unless a limited period of duration is stated in its articles of incorporation.

(2) To sue and be sued, complain and defend, in its corporate name.

(3) To have a corporate seal which may be altered at pleasure, and to use the same by causing it, or a facsimile thereof, to be impressed or affixed or in any other manner reproduced.

(4) To purchase, take, receive, lease, take by gift, devise or bequest, or otherwise acquire, own, hold, be trustee of, improve, use and otherwise deal in and with real or personal property, or any interest therein, wherever situated.

(5) To sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

(6) To lend money to its employees.

(7) To purchase, take, receive, subscribe for, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares or other interests in, or obligations of, other domestic or foreign corporations, whether for profit or not for profit, associations, partnerships or individuals, or direct or indirect obligations of the United States, or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof.

(8) To make contracts and incur liabilities, borrow money at such rates of interest as the corporation may determine, issue its notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of all or any of its property, franchises and income.

(9) To lend money for its corporate purposes, invest and reinvest its funds, and take and hold real and personal property as security for the payment of funds so loaned or invested.

(10) To conduct its affairs, carry on its operations, and have offices and exercise the powers granted by this chapter, in any state, territory, district, or possession of the United States, or in any foreign country.

(11) To elect or appoint officers and agents of the corporation, and define their duties and fix their compensation.

(12) To make and alter bylaws, not inconsistent with its articles of incorporation or with the laws of this state, for the administration and regulation of the affairs of the corporation.

(13) To establish and maintain reserve, equity, surplus or other funds, and to provide for the time, form and manner of distribution of such funds among members, shareholders or other persons with interests therein in accordance with the articles of incorporation.

(14) Unless otherwise provided in the articles of incorporation, to make donations for the public welfare or for charitable, scientific or educational purposes, and in time of war to make donations in aid of the United States and its war activities.

(15) To indemnify any director or officer or former director or officer of the corporation, or any person who may have served at its request as a director or officer of another corporation, against expenses actually and necessarily incurred by him in connection with the defense of any action, suit or proceeding in which he is made a party by reason of being or having been such director or officer, except in relation to matters as to which he shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in the performance of duty: *Provided*, That such indemnification shall not be deemed exclusive of any other rights to which such director or officer may be entitled, under any bylaw, agreement, vote of board of directors or members, or otherwise.

(16) To cease its corporate activities and surrender its corporate franchise.

(17) To have and exercise all powers necessary or convenient to effect any or all of the purposes for which the corporation is organized and not inconsistent with the articles of incorporation or the provisions of this chapter. [1969 ex.s. c 120 § 6.]

Indemnification of directors, officers, etc., insurance: RCW 23A.08.025.

24.06.035 Nonprofit status. A corporation subject to the provisions of this chapter shall not engage in any business, trade, a vocation or profession for profit: *Provided*, That nothing contained herein shall be construed to forbid such a corporation from accumulating reserve, equity, surplus or other funds through subscriptions, fees, dues or assessments, or from charges made its members or other persons for services rendered or supplies or benefits furnished, or from distributing its surplus funds to its members, stockholders or other persons in accordance with the provisions of the articles of incorporation. [1969 ex.s. c 120 § 7.]

24.06.040 Defense of ultra vires. No act of a corporation and no conveyance or transfer of real or personal property to or by a corporation shall be invalid by reason of the fact that the corporation was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted:

(1) In a proceeding by a member, shareholder or a director against the corporation to enjoin the doing or continuation of unauthorized acts or the transfer of real or personal property by or to the corporation. If the unauthorized acts or transfer sought to be enjoined are being, or are to be, performed pursuant to any contract to which the corporation is a party, the court may, if all of the parties to the contract are parties to the proceeding and if it deems the same to be equitable, set aside and enjoin the performance of such contract, and in so doing may allow to the corporation or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the court in setting aside and enjoining the performance of such contract: *Provided*, That anticipated profits to be derived from the performance of the contract shall not be awarded by the court as a loss or damage sustained.

(2) In a proceeding by the corporation, whether acting directly or through a receiver, trustee, or other legal representative, or through members or shareholder in a representative suit, against the officers or directors of the corporation for exceeding their authority.

(3) In a proceeding by the attorney general, as provided in this chapter, to dissolve the corporation, or in a proceeding by the attorney general to enjoin the corporation from performing unauthorized acts, or in any other proceeding by the attorney general. [1969 ex.s. c 120 § 8.]

24.06.045 Corporate name. The corporate name:

(1) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than one or more of the purposes contained in its articles of incorporation.

(2) Shall not be the same as, or deceptively similar to, the name of any corporation existing under any act of this state, or any foreign corporation authorized to transact business or conduct affairs in this state under any act of this state or a corporate name reserved or registered as permitted by the laws of this state.

(3) Shall be transliterated into letters of the English alphabet if it is not in English.

(4) The name of any corporation formed under this section after June 7, 1973 shall not end with "incorporated", "company", or "corporation" or any abbreviation thereof, but may use "club", "league", "association", "services", "committee", "fund", "society", or any name of like import. [1973 c 113 § 1; 1969 ex.s. c 120 § 9.]

24.06.050 Registered office and registered agent. Each corporation shall have and continuously maintain in this state:

(1) A registered office which may be, but need not be, the same as its principal office.

(2) A registered agent, which agent may be either an individual resident in this state whose business office is identical with such registered office, or a domestic corporation existing under any act of this state or a foreign corporation authorized to transact business or conduct affairs in this state under any act of this state having an office identical with such registered office. The resident agent and registered office shall be designated by duly adopted resolution of the board of directors; and a verified statement of such designation, executed by the president or a vice president of the corporation, together with a copy of the board of directors' designating resolution certified as true by the secretary of the corporation, shall be filed with the secretary of state. [1969 ex.s. c 120 § 10.]

24.06.055 Change of registered office or registered agent. A corporation may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) The address of its then registered office.

(3) If the address of its registered office be changed, the address to which the registered office is to be changed, including street and number.

(4) The name of its then registered agent.

(5) If its registered agent be changed, the name of its successor registered agent.

(6) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(7) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation by its president or a vice president, and verified by him, and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this chapter, he shall file such statement in his office, and upon such filing, the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective.

Any registered agent of a corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the corporation in care of an officer, who is not the resigning registered agent, at the address of such officer as shown by the most recent annual report of the corporation. The appointment of such agent shall terminate upon the expiration of thirty days after receipt of such notice by the secretary of state. [1969 ex.s. c 120 § 11.]

24.06.060 Service of process on corporation. The registered agent so appointed by a corporation shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served.

Whenever a corporation shall fail to appoint or maintain a registered agent in this state, or whenever its registered agent cannot with reasonable diligence be found at the registered office, then the secretary of state shall

be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of the copies thereof to be forwarded by certified mail, addressed to the corporation at its registered office. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this section, and shall record therein the time of such service and his action with reference thereto.

Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1969 ex.s. c 120 § 12.]

24.06.065 Members. A corporation may have one or more classes of members. The designation of such class or classes, the manner of election, appointment or admission to membership, and the qualifications, responsibilities and rights of the members of each class shall be set forth in the articles of incorporation. A corporation may issue certificates evidencing membership therein. Certificates may be assigned by a member and reacquired by the corporation under such provisions, rules and regulations as may be prescribed in the articles of incorporation. Membership may be terminated under such provisions, rules and regulations as may be prescribed in the articles of incorporation or bylaws. [1969 ex.s. c 120 § 13.]

24.06.070 Shares—Issuance—Payment—Subscription agreements. (1) Each corporation which is organized with capital stock shall have the power to create and issue the number of shares stated in its articles of incorporation. Such shares may be divided into one or more classes, any or all of which classes may consist of shares with par value or shares without par value, with such designations, preferences, limitations, and relative rights as shall be stated in the articles of incorporation. The articles of incorporation may limit or deny the voting rights of or provide special voting rights for the shares of any class to the extent not inconsistent with the provisions of this chapter.

(2) Without limiting the authority herein contained, a corporation, when so provided in its articles of incorporation, may issue shares of preferred or special classes:

(a) Subject to the right of the corporation to redeem any of such shares at the price fixed by the articles of incorporation for the redemption thereof.

(b) Entitling the holders thereof to cumulative, non-cumulative or partially cumulative dividends.

(c) Having preference over any other members or class or classes of shares as to the payment of dividends.

(d) Having preference in the assets of the corporation over any other members or class or classes of shares

upon the voluntary or involuntary liquidation of the corporation.

(3) The consideration for the issuance of shares may be paid in whole or in part, in money, in other property, tangible or intangible, or in labor or services actually performed for the corporation. When payment of the consideration for which shares are to be issued shall have been received by the corporation, such shares shall be deemed to be fully paid and nonassessable.

Neither promissory notes nor future services shall constitute payment or part payment, for shares of a corporation.

In the absence of fraud in the transaction, the judgment of the board of directors or the shareholders, as the case may be, as to the value of the consideration received for shares shall be conclusive.

(4) A subscription for shares of a corporation to be organized shall be in writing and be irrevocable for a period of six months, unless otherwise provided by the terms of the subscription agreement or unless all of the subscribers consent to the revocation of such subscription.

Unless otherwise provided in the subscription agreement, subscriptions for shares, whether made before or after the organization of a corporation, shall be paid in full at such time, or in such installments and at such times, as shall be determined by the board of directors. Any call made by the board of directors for payment on subscriptions shall be uniform as to all shares of the same class or as to all shares of the same series, as the case may be. In case of default in the payment of any installment or call when such payment is due, the corporation may proceed to collect the amount due in the same manner as any debt due the corporation. The bylaws may prescribe other penalties for failure to pay installments or calls that may become due, but no penalty working a forfeiture of a subscription, or of the amounts paid thereon, shall be declared as against any subscriber unless the amount due thereon shall remain unpaid for a period of twenty days after written demand has been made therefor. If mailed, such written demand shall be deemed to be made when deposited in the United States mail in a sealed envelope addressed to the subscriber at his last post office address known to the corporation, with postage thereon prepaid. In the event of the sale of any shares by reason of any forfeiture, the excess of proceeds realized over the amount due and unpaid on such shares shall be paid to the delinquent subscriber or to his legal representative. [1969 ex.s. c 120 § 14.]

24.06.075 Shares—Consideration, fixing. (1) Shares having a par value may be issued for such consideration expressed in dollars, not less than the par value thereof, as shall be fixed from time to time by the board of directors.

(2) Shares without par value shall be issued for such consideration expressed in dollars as may be fixed from time to time by the board of directors. [1969 ex.s. c 120 § 15.]

24.06.080 Shares—Certificates. The shares of a corporation shall be represented by certificates signed by the president or vice president and the secretary or an assistant secretary of the corporation, and may be sealed with the seal of the corporation or a facsimile thereof. The signatures of the president or vice president and the secretary or assistant secretary upon a certificate may be facsimiles if the certificate is countersigned by a transfer agent, or registered by a registrar, other than the corporation itself or an employee of the corporation. In case any officer who has signed or whose facsimile signature has been placed upon such certificate shall have ceased to be such officer before such certificate is issued, it may be issued by the corporation with the same effect as if he were such officer at the date of its issue.

Every certificate representing shares issued by a corporation which is authorized to issue shares of more than one class shall set forth upon the face or back of the certificate, or shall state that the corporation will furnish to any shareholder upon request and without charge, a full statement of the designations, preferences, limitations, and relative rights of the shares of each class authorized to be issued and, if the corporation is authorized to issue any preferred or special class in series, the variations in the relative rights and preferences between the shares of each such series so far as the same have been fixed and determined and the authority of the board of directors to fix and determine the relative rights and preferences of subsequent series.

Each certificate representing shares shall state upon the face thereof:

- (1) That the corporation is organized under the laws of this state.
- (2) The name of the person to whom issued.
- (3) The number and class of shares, and the designation of the series, if any, which such certificate represents.
- (4) The par value of each share represented by such certificate, or a statement that the shares are without par value.

No certificate shall be issued for any share until such share is fully paid. [1969 ex.s. c 120 § 16.]

24.06.085 Liability of shareholders, subscribers, assignees, executors, trustees, etc. A holder of or subscriber to shares of a corporation shall be under no obligation to the corporation or its creditors with respect to such shares other than the obligation to pay to the corporation the full consideration for which such shares were issued or to be issued.

Any person becoming an assignee or transferee of shares or of a subscription for shares in good faith and without knowledge or notice that the full consideration therefor has not been paid shall not be personally liable to the corporation or its creditors for any unpaid portion of such consideration.

An executor, administrator, conservator, guardian, trustee, assignee for the benefit of creditors, or receiver shall not be personally liable to the corporation as a holder of or subscriber to shares of a corporation but the estate and funds in his hands shall be so liable.

No pledgee or other holder of shares as collateral security shall be personally liable as a shareholder. [1969 ex.s. c 120 § 17.]

24.06.090 Preemptive share acquisition rights. The preemptive right of a shareholder to acquire unissued shares of a corporation may be limited or denied to the extent provided in the articles of incorporation. [1969 ex.s. c 120 § 18.]

24.06.095 Bylaws. The initial bylaws of a corporation shall be adopted by its board of directors. The power to alter, amend or repeal the bylaws or adopt new bylaws shall be vested in the board of directors unless otherwise provided in the articles of incorporation or the bylaws. The bylaws may contain any provisions for the regulation and management of the affairs of a corporation not inconsistent with law or the articles of incorporation: *Provided*, That where the bylaws of an existing corporation prohibit voting by mail or by proxy or attorney-in-fact, and the quorum required by its bylaws for election of directors or transaction of other business has not been obtained at a shareholders' or members' meeting, for a period which includes at least two consecutive annual meeting dates, the board of directors shall have power to amend such bylaws to thereafter authorize voting by mail or by proxy or attorney-in-fact. [1970 ex.s. c 78 § 1; 1969 ex.s. c 120 § 19.]

24.06.100 Meetings of members and shareholders. Meetings of members and/or shareholders may be held at such place, either within or without this state, as may be provided in the bylaws. In the absence of any such provision, all meetings shall be held at the registered office of the corporation in this state.

An annual meeting of the members and shareholders shall be held at such time as may be provided in the bylaws. Failure to hold the annual meeting at the designated time shall not work a forfeiture or dissolution of the corporation.

Special meetings of the members or shareholders may be called by the president or by the board of directors. Special meetings of the members or shareholders may also be called by such other officers or persons or number or proportion of members or shareholders as may be provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the number or proportion of members or shareholders entitled to call a meeting, a special meeting of members or shareholders may be called by persons having one-twentieth of the votes entitled to be cast at such meeting. [1969 ex.s. c 120 § 20.]

24.06.105 Notice of meetings. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten nor more than fifty days before the date of the meeting, either personally or by mail, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting, to each member or shareholder entitled to vote at such meeting. If provided

in the articles of incorporation, notice of regular meetings other than annual may be made by providing each member with the adopted schedule of regular meetings for the ensuing year at any time after the annual meeting and ten days prior to a regular meeting and at any time when requested by a member or by such other notice as may be prescribed by the bylaws. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail, addressed to the member or shareholder at his address as it appears on the records of the corporation, with postage thereon prepaid. [1969 ex.s. c 120 § 21.]

24.06.110 Voting. The right of a class or classes of members or shareholders to vote may be limited, enlarged or denied to the extent specified in the articles of incorporation. Unless so limited, enlarged or denied, each member and each outstanding share of each class shall be entitled to one vote on each matter submitted to a vote of members or shareholders. No member of a class may acquire any interest which will entitle him to a greater vote than any other member of the same class.

A member or shareholder may vote in person or, unless the articles of incorporation or the bylaws otherwise provide, may vote by mail or by proxy executed in writing by the member or shareholder or by his duly authorized attorney-in-fact: *Provided*, That no proxy shall be valid for more than eleven months from the date of its execution unless otherwise specified in the proxy.

The articles of incorporation may provide that whenever proposals or directors or officers are to be voted upon, such vote may be taken by mail if the name of each candidate and the text of each proposal to be so voted upon are set forth in a writing accompanying or contained in the notice of meeting. Persons voting by mail shall be deemed present for all purposes of quorum, count of votes and percentages of total voting power voting.

The articles of incorporation or the bylaws may provide that in all elections for directors every person entitled to vote shall have the right to cumulate his vote and to give one candidate a number of votes equal to his vote multiplied by the number of directors to be elected, or by distributing such votes on the same principle among any number of such candidates. [1969 ex.s. c 120 § 22.]

24.06.115 Quorum. The articles of incorporation or the bylaws may provide the number or percentage of votes which members or shareholders are entitled to cast in person, by mail, or by proxy, which shall constitute a quorum at meetings of shareholders or members. However, in no event shall a quorum be less than one-fourth of the votes which members or shareholders are entitled to cast in person, by mail, or by proxy, at a meeting considering the adoption of a proposal which is required by the provisions of this chapter to be adopted by at least two-thirds of the votes which members or shareholders present at the meeting in person or by mail or represented by proxy are entitled to cast. In all other matters and in the absence of any provision in the articles of incorporation or bylaws, a quorum shall consist of one-fourth of the votes which members or shareholders

are entitled to cast in person, by mail, or by proxy at the meeting. On any proposal on which a class of shareholders or members is entitled to vote as a class, a quorum of the class entitled to vote as such class must also be present in person, by mail, or represented by proxy. [1969 ex.s. c 120 § 23.]

24.06.120 Class voting. A class of members or shareholders shall be entitled to vote as a class upon any proposition, whether or not entitled to vote thereon by the provisions of the articles of incorporation, if the proposition would increase or decrease the rights, qualifications, limitations, responsibilities or preferences of the class as related to any other class. [1969 ex.s. c 120 § 24.]

24.06.125 Board of directors. The affairs of the corporation shall be managed by a board of directors. Directors need not be residents of this state or members or shareholders of the corporation unless the articles of incorporation or the bylaws so require. The articles of incorporation or the bylaws may prescribe other qualifications for directors. [1969 ex.s. c 120 § 25.]

24.06.130 Number and election of directors. The number of directors of a corporation shall be not less than three and shall be fixed by the bylaws: *Provided*, That the number of the first board of directors 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, unless the articles of incorporation provide that a change in the number of directors shall be made only by amendment of the articles of incorporation. No decrease in number 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 directors constituting the first board of directors shall be named in the articles of incorporation and shall hold office until the first annual election of directors or for such other period as may be specified in the articles of incorporation or the bylaws. Thereafter, directors shall be elected or appointed in the manner and for the terms provided in the articles of incorporation or the bylaws. In the absence of a provision fixing the term of office, the term of office of a director shall be one year.

Directors may be divided into classes and the terms of office of the several classes need not be uniform. Each director shall hold office for the term for which he is elected or appointed and until his successor shall have been elected or appointed and qualified.

A director may be removed from office pursuant to any procedure therefor provided in the articles of incorporation. [1969 ex.s. c 120 § 26.]

24.06.135 Vacancies. Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the board of directors unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other

manner. A director elected or appointed, as the case may be, to fill a vacancy, shall be elected or appointed for the unexpired term of his predecessor in office. [1969 ex.s. c 120 § 27.]

24.06.140 Quorum of directors. A majority of the number of directors fixed by the bylaws, or in the absence of a bylaw fixing the number of directors, then of the number stated in the articles of incorporation, shall constitute a quorum for the transaction of business, unless otherwise provided in the articles of incorporation or the bylaws: *Provided*, That a quorum shall never consist of less than one-third of the number of directors so fixed or stated. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors, unless the act of a greater number is required by this chapter, the articles of incorporation, or the bylaws. [1969 ex.s. c 120 § 28.]

24.06.145 Committees. If the articles of incorporation or the bylaws so provide, the board of directors, by resolution adopted by a majority of the directors in office, may designate and appoint one or more committees each of which shall consist of two or more directors, which committees, to the extent provided in such resolution, in the articles of incorporation, or in the bylaws of the corporation, shall have and exercise the authority of the board of directors in the management of the corporation: *Provided*, That no such committee shall have the authority of the board of directors in reference to:

- (1) Amending, altering or repealing the bylaws;
- (2) Electing, appointing, or removing any member of any such committee or any director or officer of the corporation;
- (3) Amending the articles of incorporation;
- (4) Adopting a plan of merger or a plan of consolidation with another corporation;
- (5) Authorizing the sale, lease, exchange, or mortgage, of all or substantially all of the property and assets of the corporation;
- (6) Authorizing the voluntary dissolution of the corporation or revoking proceedings therefor; or
- (7) Amending, altering or repealing any resolution of the board of directors which by its terms provides that it shall not be amended, altered or repealed by such committee.

The designation and appointment of any such committee and the delegation thereto of authority shall not operate to relieve the board of directors, or any individual director of any responsibility imposed upon it or him by law. [1969 ex.s. c 120 § 29.]

24.06.150 Directors' meetings. Meetings of the board of directors, regular or special, may be held either within or without this state, and upon such notice as the bylaws may prescribe. Attendance of a director at any meeting shall constitute a waiver of notice of such meeting except where a director 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 need be specified in the notice or waiver of notice of such meeting. [1969 ex.s. c 120 § 30.]

24.06.155 Officers. The officers of a corporation shall consist of a president, one or more vice presidents, a secretary, a treasurer and such other officers and assistant officers as may be deemed necessary, each of whom shall be elected or appointed at such time and in such manner and for such terms not exceeding three years as may be prescribed in the articles of incorporation or the bylaws. In the absence of any such provision, all officers shall be elected or appointed annually by the board of directors. If the bylaws so provide, any two or more offices may be held by the same person, except the offices of president and secretary.

The articles of incorporation or the bylaws may provide that any one or more officers of the corporation shall be ex officio members of the board of directors.

The officers of a corporation may be designated by such additional titles as may be provided in the articles of incorporation or the bylaws. [1969 ex.s. c 120 § 31.]

24.06.160 Books and records. Each corporation shall keep correct and complete books and records of account and shall keep minutes of the proceedings of its members, shareholders, board of directors, and committees having any of the authority of the board of directors; and shall keep at its registered office or principal office in this state a record of the names and addresses of its members and shareholders entitled to vote. All books and records of a corporation may be inspected by any member or shareholder, or his agent or attorney, for any proper purpose at any reasonable time. [1969 ex.s. c 120 § 32.]

24.06.165 Loans to directors or officers. No loans exceeding or more favorable than those which are customarily made to members or shareholders shall be made by a corporation to its directors or officers. The directors of a corporation who vote for or assent to the making of a loan in violation of this section to a director or officer of the corporation, and any officer or officers participating in the making of such loan, shall be jointly and severally liable to the corporation for the amount of such loan until the repayment thereof. [1969 ex.s. c 120 § 33.]

24.06.170 Filing of articles of incorporation. TriPLICATE originals of the articles of incorporation shall be delivered to the secretary of state. If the secretary of state finds that the articles of incorporation conform to law, he shall, when all fees have been paid as in this chapter prescribed:

- (1) Endorse on each of such originals the word "filed" and the month, day, and year of the filing thereof.
- (2) File one of such originals in his office.
- (3) Issue a certificate of incorporation to which he shall affix one of such originals.

The certificate of incorporation together with the original of the articles of incorporation affixed thereto by the secretary of state and the other remaining original

shall be returned to the incorporators or their representatives. The third remaining original shall then be filed in the office of the county auditor of the county in which the registered office is situated or in such other office as may be designated in a charter county for the filing of articles of incorporation. The original affixed to the certificate of incorporation shall be retained by the corporation. [1969 ex.s. c 120 § 34.]

24.06.175 Effect of issuance of certificates of incorporation. Upon the issuance of the certificate of incorporation, the corporate existence shall begin, and such certificate of incorporation shall, except as against the state in a proceeding to cancel or revoke the certificate of incorporation, be conclusive evidence that all conditions precedent required to be performed by the incorporators have been complied with and that the corporation has been incorporated under this chapter. [1969 ex.s. c 120 § 35.]

24.06.180 Organization meeting. After the issuance of the certificate of incorporation an organization meeting of the board of directors named in the articles of incorporation shall be held, either within or without this state, at the call of a majority of the incorporators, for the purpose of adopting bylaws, electing officers and the transaction of such other business as may come before the meeting. The incorporators calling the meeting shall give at least three days' notice thereof by mail to each director so named, which notice shall state the time and place of the meeting.

A first meeting of the members and shareholders may be held at the call of the directors, or a majority of them, upon at least three days' notice, for such purposes as shall be stated in the notice of the meeting. [1969 ex.s. c 120 § 36.]

24.06.185 Right to amend articles of incorporation. A corporation may amend its articles of incorporation from time to time in any and as many respects as may be desired, so long as its articles of incorporation as amended contain only such provisions as are lawful under this chapter. [1969 ex.s. c 120 § 37.]

24.06.190 Procedure to amend articles of incorporation. Amendments to the articles of incorporation shall be made in the following manner:

The board of directors shall adopt a resolution setting forth the proposed amendment and directing that it be submitted to a vote at a meeting of members and shareholders, which may be either an annual or a special meeting. Written or printed notice setting forth the proposed amendment or a summary of the changes to be effected thereby shall be given to each member and shareholder entitled to vote at such meeting within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders. The proposed amendment shall be adopted upon receiving at least two-thirds of the votes which members or shareholders present in person or by mail at such meeting or represented by proxy are entitled to cast: *Provided*, That when any class of shares or members is

entitled to vote thereon by class, the proposed amendment must receive at least two-thirds of the votes of the members or shareholders of each class entitled to vote thereon as a class, who are present in person, by mail, or represented by proxy at such meeting.

Any number of amendments may be submitted and voted upon at any one meeting. [1969 ex.s. c 120 § 38.]

24.06.195 Articles of amendment. The articles of amendment shall be executed in triplicate originals 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 articles, and shall set forth:

(1) The name of the corporation.

(2) The amendment so adopted.

(3) A statement setting forth the date of the meeting of members and shareholders at which the amendment was adopted, that a quorum was present at such meeting, and that such amendment received at least two-thirds of the votes which members or shareholders of the corporation, and of each class entitled to vote thereon as a class, present at such meeting in person, by mail, or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members and shareholders entitled to vote with respect thereto. [1969 ex.s. c 120 § 39.]

24.06.200 Filing of articles of amendment—Procedure. Triplicate originals of the articles of amendment shall be delivered to the secretary of state. If the secretary of state finds that the articles of amendment conform to law, he shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such originals the word "filed", and the month, day and year of the filing thereof.

(2) File one of such originals in his office.

(3) Issue a certificate of amendment to which he shall affix one of such originals.

The certificate of amendment, together with original of the articles of amendment affixed thereto by the secretary of state and the other remaining original shall be returned to the corporation or its representative. The last remaining original shall then be filed in the office of the county auditor of the county in which the registered office is situated or in such other office as may be designated in a charter county for the filing of articles of incorporation. The original affixed to the certificate of amendment shall be retained by the corporation. [1969 ex.s. c 120 § 40.]

24.06.205 When amendment becomes effective—Existing actions and rights not affected. Upon the issuance of the certificate of amendment by the secretary of state, the amendment shall become effective and the articles of incorporation shall be deemed to be amended accordingly.

No amendment shall affect any existing cause of action in favor of or against such corporation, nor any pending action to which such corporation shall be a party, nor the existing rights of persons other than members; and, in the event the corporate name shall be

changed by amendment, no action brought by or against such corporation under its former name shall abate for that reason. [1969 ex.s. c 120 § 41.]

24.06.210 Procedure for merger. Any two or more domestic corporations may merge into one of such corporations pursuant to a plan of merger approved in the manner provided in this chapter.

Each corporation shall adopt a plan of merger setting forth:

(1) The names of the corporations proposing to merge, and the name of the corporation into which they propose to merge, which is hereinafter designated as the surviving corporation.

(2) The terms and conditions of the proposed merger.

(3) A statement of any changes in the articles of incorporation of the surviving corporation to be effected by such merger.

(4) Such other provisions with respect to the proposed merger as are deemed necessary or desirable. [1969 ex.s. c 120 § 42.]

24.06.215 Procedure for consolidation. Any two or more domestic corporations may consolidate into a new corporation pursuant to a plan of consolidation approved in the manner provided in this chapter.

Each corporation shall adopt a plan of consolidation setting forth:

(1) The names of the corporations proposing to consolidate, and the name of the new corporation into which they propose to consolidate, which is hereinafter designated as the new corporation.

(2) The terms and conditions of the proposed consolidation.

(3) With respect to the new corporation, all of the statements required to be set forth in articles of incorporation for corporations organized under this chapter.

(4) Such other provisions with respect to the proposed consolidation as are deemed necessary or desirable. [1969 ex.s. c 120 § 43.]

24.06.220 Approval of merger or consolidation. A plan of merger or consolidation shall be adopted in the following manner:

The board of directors of such corporation shall adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a meeting of members or shareholders which may be either an annual or a special meeting. Written or printed notice setting forth the proposed plan or a summary thereof shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders. The proposed plan shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by mail at each such meeting or represented by proxy are entitled to cast: *Provided*, That when any class of shares or members is entitled to vote thereon as a class, the proposed amendment must receive at least two-thirds of the votes of the members or shareholders of each class entitled to vote thereon as a class, who are

present in person, by mail, or represented by proxy at such meeting.

After such approval, and at any time prior to the filing of the articles of merger or consolidation, the merger or consolidation may be abandoned pursuant to provisions therefor, if any, set forth in the plan of merger or consolidation. [1969 ex.s. c 120 § 44.]

24.06.225 Articles of merger or consolidation. (1) Upon approval, articles of merger or articles of consolidation shall be executed in triplicate originals by each corporation, by its president or a vice president, and by its secretary or an assistant secretary, and verified by one of the officers of each corporation signing such articles, and shall set forth:

(a) The plan of merger or the plan of consolidation;

(b) A statement setting forth the date of the meeting of members or shareholders at which the plan was adopted, that a quorum was present at such meeting, and that such plan received at least two-thirds of the votes which members and shareholders of the corporation and of each class entitled to vote thereon as a class, present at such meeting in person or by mail or represented by proxy were entitled to cast, or a statement that such amendment was adopted by a consent in writing signed by all members;

(2) Triplicate originals of the articles of merger or articles of consolidation shall be delivered to the secretary of state. If the secretary of state finds that such articles conform to law, he shall, when all fees have been paid as prescribed in this chapter:

(a) Endorse on each of such originals the word "filed", and the month, day and year of the filing thereof;

(b) File one of such originals in his office;

(c) Issue a certificate of merger or a certificate of consolidation to which he shall affix one of such originals.

The certificate of merger or certificate of consolidation, together with the original of the articles of merger or articles of consolidation affixed thereto by the secretary of state and the other remaining original shall be returned to the surviving or new corporation, as the case may be, or its representative. The remaining original shall be filed in the office of the county auditor of the county in which the registered office is situated or in such other office as may be designated in a charter county for the filing of articles of incorporation. The original affixed to the certificate of merger or consolidation shall be retained by the corporation. [1969 ex.s. c 120 § 45.]

24.06.230 Merger or consolidation—When effected. Upon the issuance of the certificate of merger, or the certificate of consolidation by the secretary of state, the merger or consolidation shall be effected. [1969 ex.s. c 120 § 46.]

24.06.235 Effect of merger or consolidation. When such merger or consolidation has been effected:

(1) The several corporations party to the plan of merger or consolidation shall be a single corporation, which, in the case of a merger, shall be that corporation

designated in the plan of merger as the surviving corporation, and, in the case of a consolidation, shall be the new corporation provided for in the plan of consolidation.

(2) The separate existence of all corporations party to the plan of merger or consolidation, except the surviving or new corporation, shall cease.

(3) The surviving or new corporation shall have all the rights, privileges, immunities and powers, and shall be subject to all the duties and liabilities of a corporation organized under this chapter.

(4) The surviving or new corporation shall thereupon and thereafter possess all the rights, privileges, immunities, and franchises, whether of a public or a private nature, of each of the merging or consolidating corporations; all property, real, personal and mixed, and all debts due on whatever account, and all other choses in action, and all and every other interest, of or belonging to or due to each of the corporations so merged or consolidated, shall be taken and deemed to be transferred to and vested in such single corporation without further act or deed; and no title to any real estate, or any interest therein, vested in any of such corporations shall not revert nor be in any way impaired by reason of such merger or consolidation.

(5) The surviving or new corporation shall thenceforth be responsible and liable for all the liabilities and obligations of each of the corporations so merged or consolidated; and any claim existing or action or proceeding pending by or against any of such corporations may be prosecuted as if such merger or consolidation had not taken place, or such surviving or new corporation may be substituted in its place. No rights of creditors nor any liens upon the property of any such corporation shall be impaired by such merger or consolidation.

(6) In the case of a merger, the articles of incorporation of the surviving corporation shall be deemed to be amended to the extent, if any, that changes in its articles of incorporation are stated in the plan of merger; and, in the case of a consolidation, the statements set forth in the articles of consolidation and which are required or permitted to be set forth in the articles of incorporation of corporations organized under this chapter shall be deemed to be the articles of incorporation of the new corporation. [1969 ex.s. c 120 § 47.]

24.06.240 Sale, lease, exchange, etc., of property and assets. A sale, lease, exchange, or other disposition of all or substantially all of the property and assets of a corporation may be made upon such terms and conditions and for such consideration, which may consist in whole or in part of money or property, real or personal, including shares of any corporation for profit, domestic or foreign, as may be authorized in the following manner:

(1) The board of directors shall adopt a resolution recommending a sale, lease, exchange, or other disposition and directing that it be submitted to a vote at a meeting of members or shareholders which may be either an annual or a special meeting.

(2) Written or printed notice stating that the purpose or one of the purposes of such meeting is to consider the

sale, lease, exchange, or other disposition of all or substantially all of the property and assets of the corporation shall be given to each member and shareholder within the time and in the manner provided by this chapter for the giving of notice of meetings of members and shareholders.

(3) At such meeting the members may authorize such sale, lease, exchange, or other disposition and may fix, or may authorize the board of directors to fix, any or all of the terms and conditions thereof and the consideration to be received by the corporation therefor.

(4) Such authorization shall require at least two-thirds of the votes which members and shareholders present at such meetings in person, by mail, or represented by proxy are entitled to cast: *Provided*, That even after such authorization by a vote of members or shareholders, the board of directors may, in its discretion, without further action or approval by members, abandon such sale, lease, exchange, or other disposition of assets, subject only to the rights of third parties under any contracts relating thereto. [1969 ex.s. c 120 § 48.]

24.06.245 Right of member or shareholder to dissent.

Any member or shareholder of a corporation shall have the right to dissent from any of the following corporate actions:

(1) Any plan of merger or consolidation to which the corporation is a party; or

(2) Any sale or exchange of all or substantially all of the property and assets of the corporation not made in the usual and regular course of its business, including a sale in dissolution, but not including a sale pursuant to an order of a court having jurisdiction in the premises or a sale for cash on terms requiring that all or substantially all of the net proceeds of sale be distributed to the shareholders in accordance with their respective interests within one year after the date of sale; or

(3) Any amendment to the articles of incorporation which changes voting or property rights of members or shareholders other than by changing the number of memberships or shares or classes of either thereof; or

(4) Any amendment to the articles of incorporation which reorganizes a corporation under the provisions of this chapter.

The provisions of this section shall not apply to the members or shareholders of the surviving corporation in a merger if such corporation is on the date of the filing of the articles of merger the owner of all the outstanding shares of the other corporations, domestic or foreign, which are parties to the merger, or if a vote of the members and shareholders of such corporation is not necessary to authorize such merger. [1969 ex.s. c 120 § 49.]

24.06.250 Exercise of right of dissent—Rights and liabilities. Any member or shareholder electing to exercise such right of dissent shall file with the corporation, prior to or at the meeting of members and shareholders at which such proposed corporate action is submitted to a vote, a written objection to such proposed corporate action. If such proposed corporate action be approved by the required vote and such member or shareholder shall

not have voted in favor thereof, such member or shareholder may, within ten days after the date on which the vote was taken, or if a corporation is to be merged without a vote of its members and shareholders into another corporation, any other members or shareholders may, within fifteen days after the plan of such merger shall have been mailed to such members and shareholders, make written demand on the corporation, or, in the case of a merger or consolidation, on the surviving or new corporation, domestic or foreign, for payment of the fair value of such member's membership or of such shareholder's shares, and, if such proposed corporate action is effected, such corporation shall pay to such member, upon surrender of his membership certificate, if any, or to such shareholder, upon surrender of the certificate or certificates representing such shares, the fair value thereof as of the day prior to the date on which the vote was taken approving the proposed corporate action, excluding any appreciation or depreciation in anticipation of such corporate action. Any member or shareholder failing to make demand within the ten day period shall be bound by the terms of the proposed corporate action. Any member or shareholder making such demand shall thereafter be entitled only to payment as in this section provided and shall not be entitled to vote or to exercise any other rights of a member or shareholder.

No such demand shall be withdrawn unless the corporation shall consent thereto. The right of such member or shareholder to be paid the fair value of his shares shall cease and his status as a member or shareholder shall be restored, without prejudice to any corporate proceedings which may have been taken during the interim, if:

- (1) Such demand shall be withdrawn upon consent; or
- (2) The proposed corporate action shall be abandoned or rescinded or the members or shareholders shall revoke the authority to effect such action; or
- (3) In the case of a merger, on the date of the filing of the articles of merger the surviving corporation is the owner of all the outstanding shares of the other corporations, domestic and foreign, that are parties to the merger; or
- (4) No demand or petition for the determination of fair value by a court shall have been made or filed within the time provided by this section; or
- (5) A court of competent jurisdiction shall determine that such member or shareholder is not entitled to the relief provided by this section.

Within ten days after such corporate action is effected, the corporation, or, in the case of a merger or consolidation, the surviving or new corporation, domestic or foreign, shall give written notice thereof to each dissenting member or shareholder who has made demand as herein provided, and shall make a written offer to each such member or shareholder to pay for such shares or membership at a specified price deemed by such corporation to be the fair value thereof. Such notice and offer shall be accompanied by a balance sheet of the corporation in which the member has his membership or the shares of which the dissenting shareholder holds, as of the latest available date and not more than twelve

months prior to the making of such offer, and a profit and loss statement of such corporation for the twelve months' period ended on the date of such balance sheet.

If within thirty days after the date on which such corporate action was effected the fair value of such shares or membership is agreed upon between any such dissenting member or shareholder and the corporation, payment therefor shall be made within ninety days after the date on which such corporate action was effected, upon surrender of the membership certificate, if any, or upon surrender of the certificate or certificates representing such shares. Upon payment of the agreed value the dissenting member or shareholder shall cease to have any interest in such membership or shares.

If within such period of thirty days a dissenting member or shareholder and the corporation do not so agree, then the corporation, within thirty days after receipt of written demand from any dissenting member or shareholder given within sixty days after the date on which such corporate action was effected, shall, or at its election at any time within such period of sixty days may, file a petition in any court of competent jurisdiction in the county in this state where the registered office of the corporation is located praying that the fair value of such membership or shares be found and determined. If, in the case of a merger or consolidation, the surviving or new corporation is a foreign corporation without a registered office in this state, such petition shall be filed in the county where the registered office of the domestic corporation was last located. If the corporation shall fail to institute the proceeding as herein provided, any dissenting member or shareholder may do so in the name of the corporation. All dissenting members and shareholders, wherever residing, shall be made parties to the proceeding as an action against their memberships or shares quasi in rem. A copy of the petition shall be served on each dissenting member and shareholder who is a resident of this state and shall be served by registered or certified mail on each dissenting member or shareholder who is a nonresident. Service on nonresidents shall also be made by publication as provided by law. The jurisdiction of the court shall be plenary and exclusive. All members and shareholders who are parties to the proceeding shall be entitled to judgment against the corporation for the amount of the fair value of their shares. The court may, if it so elects, appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers shall have such power and authority as shall be specified in the order of their appointment or an amendment thereof. The judgment shall be payable only upon and concurrently with the surrender to the corporation of the membership certificate, if any, or of the certificate or certificates representing such shares. Upon payment of the judgment, the dissenting shareholder or member shall cease to have any interest in such shares or membership.

The judgment shall include an allowance for interest at such rate as the court may find to be fair and equitable in all the circumstances, from the date on which the vote was taken on the proposed corporate action to the date of payment.

The costs and expenses of any such proceeding shall be determined by the court and shall be assessed against the corporation, but all or any part of such costs and expenses may be apportioned and assessed as the court may deem equitable against any or all of the dissenting members and shareholders who are parties to the proceeding to whom the corporation shall have made an offer to pay for membership or shares if the court shall find that the action of such members or shareholders in failing to accept such offer was arbitrary or vexatious or not in good faith. Such expenses shall include reasonable compensation for and reasonable expenses of the appraisers, but shall exclude the fees and expenses of counsel for and experts employed by any party; but if the fair value of the memberships or shares as determined materially exceeds the amount which the corporation offered to pay therefor, or if no offer was made, the court in its discretion may award to any member or shareholder who is a party to the proceeding such sum as the court may determine to be reasonable compensation to any expert or experts employed by the member or shareholder in the proceeding.

Within twenty days after demanding payment for his shares or membership, each member and shareholder demanding payment shall submit the certificate or certificates representing his membership or shares to the corporation for notation thereon that such demand has been made. His failure to do so shall, at the option of the corporation, terminate his rights under this section unless a court of competent jurisdiction, for good and sufficient cause shown, shall otherwise direct. If membership or shares represented by a certificate on which notation has been so made shall be transferred, each new certificate issued therefor shall bear a similar notation, together with the name of the original dissenting holder of such membership or shares, and a transferee of such membership or shares shall acquire by such transfer no rights in the corporation other than those which the original dissenting member or shareholder had after making demand for payment of the fair value thereof. [1969 ex.s. c 120 § 50.]

24.06.255 Limitation upon payment of fair value to dissenting member or shareholder. Notwithstanding any provision in this chapter for the payment of fair value to a dissenting member or shareholder, the articles of incorporation may provide that a dissenting member or shareholder shall be limited to a return of a lesser amount, but in no event shall a dissenting shareholder be limited to a return of less than the consideration paid to the corporation for the membership or shares which he holds unless the fair value of the membership or shares is less than the consideration paid to the corporation. [1969 ex.s. c 120 § 51.]

24.06.260 Voluntary dissolution. A corporation may dissolve and wind up its affairs in the following manner:

(1) The board of directors shall adopt a resolution recommending that the corporation be dissolved, and

directing that the question of such dissolution be submitted to a vote at a meeting of members and shareholders which may be either an annual or a special meeting.

(2) Written or printed notice stating that the purpose or one of the purposes of such meeting is to consider the advisability of dissolving the corporation shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members and shareholders.

(3) A resolution to dissolve the corporation shall be adopted upon receiving at least two-thirds of the votes which members and shareholders present in person or by mail at such meeting or represented by proxy are entitled to cast.

Upon the adoption of such resolution by the members and shareholders, the corporation shall cease to conduct its affairs and, except insofar as may be necessary for the winding up thereof, shall immediately cause a notice of the proposed dissolution to be mailed to each known creditor of the corporation, and shall proceed to collect its assets and to apply and distribute them as provided in RCW 24.06.265. [1969 ex.s. c 120 § 52.]

24.06.265 Distribution of assets. The assets of a corporation in the process of dissolution shall be applied and distributed as follows:

(1) All liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision made therefor;

(2) Assets held by the corporation upon condition requiring return, transfer or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements;

(3) Remaining assets, if any shall be distributed to the members, shareholders or others in accordance with the provisions of the articles of incorporation. [1969 ex.s. c 120 § 53.]

24.06.270 Revocation of voluntary dissolution proceedings. A corporation may, at any time prior to the issuance of a certificate of dissolution by the secretary of state, revoke the action theretofore taken to dissolve the corporation, in the following manner:

(1) The board of directors shall adopt a resolution recommending that the voluntary dissolution proceedings be revoked, and directing that the question of such revocation be submitted to a vote at a meeting of members or shareholders which may be either an annual or a special meeting.

(2) Written or printed notice stating that the purpose or one of the purposes of the meeting is to consider the advisability of revoking the voluntary dissolution proceedings shall be given to each member and shareholder within the time and in the manner provided in this chapter for the giving of notice of meetings of members or shareholders.

(3) A resolution to revoke voluntary dissolution proceedings shall be adopted upon receiving at least two-thirds of the votes which members and shareholders

present in person or by mail at such meeting or represented by proxy are entitled to cast. [1969 ex.s. c 120 § 54.]

24.06.275 Articles of dissolution. If voluntary dissolution proceedings have not been revoked, then after all debts, liabilities and obligations of the corporation shall have been paid and discharged, or adequate provision shall have been made therefor, and all of the remaining property and assets of the corporation shall have been transferred, conveyed or distributed in accordance with the provisions of this chapter, articles of dissolution 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 such statement shall set forth:

- (1) The name of the corporation.
- (2) The date of the meeting of members or shareholders at which the resolution to dissolve was adopted, certifying that:
 - (a) A quorum was present at such meeting;
 - (b) Such resolution received at least two-thirds of the votes which members and shareholders present in person or by mail at such meeting or represented by proxy were entitled to cast or was adopted by a consent in writing signed by all members and shareholders;
 - (c) All debts, obligations, and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;
 - (d) All the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of this chapter; and
 - (e) There are no suits pending against the corporation in any court or, if any suits are pending against it, that adequate provision has been made for the satisfaction of any judgment, order or decree which may be entered. [1969 ex.s. c 120 § 55.]

24.06.280 Filing of articles of dissolution. Triplicate originals of articles of dissolution shall be delivered to the secretary of state. If the secretary of state finds that such articles of dissolution conform to law, he shall, when all fees have been paid as prescribed in this chapter:

- (1) Endorse on each of such originals the word "filed", and the month, day and year of the filing thereof.
- (2) File one of the originals in his office.
- (3) Issue a certificate of dissolution which he shall affix to one of such originals.

The certificate of dissolution, together with the original of the articles of dissolution affixed thereto by the secretary of state, and the other remaining original shall be returned to the representative of the dissolved corporation, who shall file such remaining original in the office of the county auditor of the county in which the registered agent is situated or in such other county office as may be designated in a charter county for the filing of articles of incorporation. The other original with affixed certificate of dissolution shall be retained with the corporation minutes.

Upon the issuance of a certificate of dissolution, the corporate existence shall cease, except for the purpose of

determining such suits, other proceedings and appropriate corporate action by members, directors and officers as are authorized in this chapter. [1969 ex.s. c 120 § 56.]

24.06.285 Involuntary dissolution. A corporation may be dissolved by decree of the superior court in an action filed on petition of the attorney general upon a showing that:

- (1) The corporation procured its articles of incorporation through fraud; or
- (2) The corporation has continued to exceed or abuse the authority conferred upon it by law; or
- (3) The corporation has failed for ninety days to appoint and maintain a registered agent in this state; or
- (4) The corporation has failed for ninety days after change of its registered agent to file in the office of the secretary of state a statement of such change. [1969 ex.s. c 120 § 57.]

24.06.290 Proceedings for involuntary dissolution—Rights, duties and remedies. Failure of the corporation to file its annual report within the time required 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.

When a corporation has failed to file its annual report within the time required, the secretary of state shall notify the corporation by first class mail that it shall cease to exist if it does not perform the required act within thirty days after the mailing of notice. If the corporation fails to perform within thirty days, it shall automatically cease to exist.

A corporation which has ceased to exist by operation of this section may be reinstated within a period of three years following its dissolution by operation of the law if it shall file its annual report and in addition pay a reinstatement fee of five dollars plus any other fees that may be due or owing the secretary of 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 by RCW 24.06.335 and thereafter the directors of the corporation shall hold title to the property of the corporation as trustees for the benefit of its creditors and shareholders. [1973 c 70 § 1; 1969 ex.s. c 120 § 58.]

24.06.295 Venue and process. Every action for the involuntary dissolution of a corporation shall be commenced by the attorney general either in the superior court of the county in which the registered office of the corporation is situated, or in the superior court of Thurston county. Summons shall issue and be served as in other civil actions. If process is returned not found, the attorney general shall cause publication to be made as in other civil cases in a newspaper published in the county where the registered office of the corporation is situated, notifying the corporation of the pendency of such action, the title of the court, the title of the action,

the date on or after which default may be entered, giving the corporation thirty days within which to appear, answer, and defend. The attorney general may include in one notice the names of any number of corporations against which actions are then pending in the same court. The attorney general shall cause a copy of such notice to be mailed by certified mail to the corporation at its registered office within ten days after the first publication thereof. The certificate of the attorney general of the mailing of such notice shall be prima facie evidence thereof. Such notice shall be published at least once each week for two successive weeks, and the first publication thereof may begin at any time after the summons has been returned not found. Unless a corporation shall have been personally served with summons, no default shall be taken against it less than thirty days from the first publication of such notice. [1969 ex.s. c 120 § 59.]

24.06.300 Jurisdiction of court to liquidate assets and dissolve corporation. The superior court shall have full power to liquidate the assets and to provide for the dissolution of a corporation when:

(1) In any action by a member, shareholder or director it is made to appear that:

(a) The directors are deadlocked in the management of the corporate affairs and that irreparable injury to the corporation is being suffered or is threatened by reason thereof, and that the members or shareholders are unable to break the deadlock; or

(b) The acts of the directors or those in control of the corporation are illegal, oppressive, or fraudulent; or

(c) The corporate assets are being misapplied or wasted; or

(d) The corporation is unable to carry out its purposes; or

(e) The shareholders have failed, for a period which includes at least two consecutive annual meeting dates, to elect successors to directors whose terms have expired or would have expired upon the election of their successors.

(2) In an action by a creditor:

(a) The claim of the creditor has been reduced to judgment and an execution thereon has been returned unsatisfied, and it is established that the corporation is insolvent; or

(b) The corporation has admitted in writing that the claim of the creditor is due and owing, and it is established that the corporation is insolvent.

(3) A corporation applies to have its dissolution continued under the supervision of the court.

(4) An action has been filed by the attorney general to dissolve the corporation and it is established that liquidation of its affairs should precede the entry of a decree of dissolution.

Proceedings under subsections (1), (2) or (3) of this section shall be brought in the county in which the registered office or the principal office of the corporation is situated.

It shall not be necessary to make directors, members or shareholders party to any such action or proceedings

unless relief is sought against them personally. [1969 ex.s. c 120 § 60.]

24.06.305 Procedure in liquidation of corporation in court. (1) In proceedings to liquidate the assets and affairs of a corporation the court shall have the power to:

(a) Issue injunctions;

(b) Appoint a receiver or receivers pendente lite, with such powers and duties as the court may, from time to time, direct;

(c) Take such other proceedings as may be requisite to preserve the corporate assets wherever situated; and

(d) Carry on the affairs of the corporation until a full hearing can be had.

After a hearing had upon such notice as the court may direct to be given to all parties to the proceedings, and to any other parties in interest designated by the court, the court may appoint a receiver with authority to collect the assets of the corporation. Such receiver shall have authority, subject to the order of the court, to sell, convey and dispose of all or any part of the assets of the corporation wherever situated, either at public or private sale. The order appointing such receiver shall state his powers and duties. Such powers and duties may be increased or diminished at any time during the proceedings.

(2) The assets of the corporation or the proceeds resulting from the sale, conveyance, or other disposition thereof shall be applied and distributed as follows:

(a) All costs and expenses of the court proceedings, and all liabilities and obligations of the corporation shall be paid, satisfied and discharged, or adequate provision made therefor;

(b) Assets held by the corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred or conveyed in accordance with such requirements;

(c) Remaining assets, if any, shall be distributed to the members, shareholders or others in accordance with the provisions of the articles of incorporation.

(3) The court shall have power to make periodic allowances, as expenses of the liquidation and compensation to the receivers and attorneys in the proceeding accrue, and to direct the payment thereof from the assets of the corporation or from the proceeds of any sale or disposition of such assets.

A receiver appointed under the provisions of this section shall have authority to sue and defend in all courts in his own name, as receiver of such corporation. The court appointing such receiver shall have exclusive jurisdiction of the corporation and its property, wherever situated. [1969 ex.s. c 120 § 61.]

24.06.310 Qualifications of receivers—Bond. A receiver shall in all cases be a citizen of the United States or a corporation for profit authorized to act as receiver, which corporation may be a domestic corporation or a foreign corporation authorized to transact business in this state, and shall in all cases give such bond as the court may direct with such sureties as the court may require. [1969 ex.s. c 120 § 62.]

24.06.315 Filing of claims in liquidation proceedings. In proceedings to liquidate the assets and affairs of a corporation the court may require all creditors of the corporation to file with the clerk of the court or with the receiver, in such form as the court may prescribe, proofs under oath of their respective claims. If the court requires the filing of claims it shall fix a date, which shall be not less than four months from the date of the order, as the last day for the filing of claims, and shall prescribe the notice that shall be given to creditors and claimants of the date so fixed. Prior to the date so fixed, the court may extend the time for the filing of claims. Creditors and claimants failing to file proofs of claim on or before the date so fixed may be barred, by order of court, from participating in the distribution of the assets of the corporation. [1969 ex.s. c 120 § 63.]

24.06.320 Discontinuance of liquidation proceedings. The liquidation of the assets and affairs of a corporation may be discontinued at any time during the liquidation proceedings when it is established that cause for liquidation no longer exists. In such event the court shall dismiss the proceedings and direct the receiver to redeliver to the corporation all its remaining property and assets. [1969 ex.s. c 120 § 64.]

24.06.325 Decree of involuntary dissolution. In proceedings to liquidate the assets and affairs of a corporation, when the costs and expenses of such proceedings and all debts, obligations, and liabilities of the corporation shall have been paid and discharged and all of its remaining property and assets distributed in accordance with the provisions of this chapter, or in case its property and assets are not sufficient to satisfy and discharge such costs, expenses, debts, and obligations, and all the property and assets have been applied so far as they will go to their payment, the court shall enter a decree dissolving the corporation, whereupon the corporate existence shall cease. [1969 ex.s. c 120 § 65.]

24.06.330 Filing of decree of dissolution. In case the court shall enter a decree dissolving a corporation, it shall be the duty of the court clerk to cause a certified copy of the decree to be filed with the secretary of state. No fee shall be charged by the secretary of state for the filing thereof. [1969 ex.s. c 120 § 66.]

24.06.335 Survival of remedies after dissolution. The dissolution of a corporation whether (1) by the issuance of a certificate of dissolution by the secretary of state, or (2) by a decree of court when the court has not liquidated the assets and affairs of the corporation as provided in this chapter, or (3) by expiration of its period of duration, shall not take away or impair any remedy available to or against such corporation, its directors, officers, members, or shareholders, for any right or claim existing, or any liability incurred, prior to such dissolution if action or other proceeding thereon is commenced within two years from the date of dissolution. Any such action or proceeding by or against the corporation may be prosecuted or defended by the corporation in its corporate name and capacity. The members, shareholders,

directors, and officers shall have power to take such corporate or other action as shall be appropriate to protect any remedy, right, or claim. If the corporation was dissolved by the expiration of its period of duration, such corporation may amend its articles of incorporation at any time during the two years in order to extend its period of duration. [1969 ex.s. c 120 § 67.]

24.06.340 Admission of foreign corporation. (1) No foreign corporation shall have the right to conduct affairs in this state until it shall have procured a certificate of authority from the secretary of state to do so. No foreign corporation shall be entitled to procure a certificate of authority under this chapter to conduct in this state any affairs which a corporation organized under this chapter is not permitted to conduct: *Provided*, That no foreign corporation shall be denied a certificate of authority by reason of the fact that the laws of the state or country under which such corporation is organized governing its organization and internal affairs differ from the laws of this state: *Provided further*, That nothing in this chapter contained shall be construed to authorize this state to regulate the organization or the internal affairs of such corporation.

(2) Without excluding other activities not constituting the conduct of affairs in this state, a foreign corporation shall, for purposes of this chapter, not be considered to be conducting affairs in this state by reason of carrying on in this state any one or more of the following activities:

(a) Maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof, or the settlement of claims or disputes.

(b) Holding meetings of its directors, members, or shareholders, or carrying on other activities concerning its internal affairs.

(c) Maintaining bank accounts.

(d) Creating evidences of debt, mortgages or liens on real or personal property.

(e) Securing or collecting debts due to it or enforcing any rights in property securing the same. [1969 ex.s. c 120 § 68.]

24.06.345 Powers and duties, etc., of foreign corporation. A foreign corporation which shall have received a certificate of authority under this chapter shall, until a certificate of revocation or of withdrawal shall have been issued as provided in this chapter, enjoy the same but no greater rights and privileges as a domestic corporation organized for the purposes set forth in the application pursuant to which such certificate of authorization is issued, and shall be subject to the same duties, restrictions, penalties and liabilities now or hereafter imposed upon a domestic corporation of like character. [1969 ex.s. c 120 § 69.]

24.06.350 Corporate name of foreign corporation. No certificate of authority shall be issued to a foreign corporation unless the corporate name of such corporation complies with the provisions of RCW 24.06.045. [1969 ex.s. c 120 § 70.]

24.06.355 Change of name by foreign corporation. Whenever a foreign corporation which is authorized to conduct affairs in this state shall change its name to one under which a certificate of authority would not be granted to it on application therefor, the certificate of authority of such corporation shall be suspended and it shall not thereafter conduct any affairs in this state until it has changed its name to a name which is available to it under the laws of this state. [1969 ex.s. c 120 § 71.]

24.06.360 Application for certificate of authority. A foreign corporation, in order to procure a certificate of authority to conduct affairs in this state, shall make application therefor to the secretary of state, which application shall set forth:

(1) The name of the corporation and the state or country under the laws of which it is incorporated.

(2) The date of incorporation and the period of duration of the corporation.

(3) The address of the principal office of the corporation in the state or country under the laws of which it is incorporated.

(4) The address of the proposed registered office of the corporation in this state, and the name of its proposed registered agent in this state at such address.

(5) For the purpose or purposes of the corporation which it proposes to pursue in conducting its affairs in this state.

(6) The names and respective addresses of the directors and officers of the corporation.

(7) Such additional information as may be necessary or appropriate in order to enable the secretary of state to determine whether such corporation is entitled to a certificate of authority to conduct affairs in this state. [1969 ex.s. c 120 § 72.]

24.06.365 Filing of application for certificate of authority—Issuance. Duplicate originals of the application of the corporation for a certificate of authority shall be delivered to the secretary of state together with a copy of its articles of incorporation and all amendments thereto, duly authenticated by the proper officer designated under the laws of the state or country in which it is incorporated.

If the secretary of state finds that such application conforms to law, he shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such documents the word "filed", and the month, day and year of the filing thereof.

(2) File in his office one of such duplicate originals of the application and the copy of the articles of incorporation and amendments thereto.

(3) Issue a certificate of authority to conduct affairs in this state to which he shall affix the other duplicate original application.

The certificate of authority, together with the duplicate original of the application affixed thereto by the secretary of state, shall be returned to the corporation or its representative. [1969 ex.s. c 120 § 73.]

24.06.370 Effect of certificate of authority. Upon the issuance of a certificate of authority by the secretary of state, the corporation shall be authorized to conduct affairs in this state for those purposes set forth in its application: *Provided*, That the state may suspend or revoke such authority as provided in this chapter for revocation and suspension of domestic corporation franchises. [1969 ex.s. c 120 § 74.]

24.06.375 Registered office and registered agent of foreign corporation. Every foreign corporation authorized to conduct affairs in this state shall have and continuously maintain in this state:

(1) A registered office which may but need not be the same as its principal office.

(2) A registered agent, who may be:

(a) An individual resident of this state whose business office is identical with the registered office; or

(b) A domestic corporation organized under any law of this state; or

(c) A foreign corporation authorized under any law of this state to transact business or conduct affairs in this state, having an office identical with the registered office. [1969 ex.s. c 120 § 75.]

24.06.380 Change of registered office or registered agent of foreign corporation. A foreign corporation authorized to conduct affairs in this state may change its registered office or change its registered agent, or both, upon filing in the office of the secretary of state a statement setting forth:

(1) The name of the corporation.

(2) The address of its then registered office.

(3) If the address of its registered office is to be changed, such new address.

(4) The name of its then registered agent.

(5) If its registered agent is to be changed, the name of its successor registered agent.

(6) That the address of its registered office and the address of the office of its registered agent, as changed, will be identical.

(7) That such change was authorized by resolution duly adopted by its board of directors.

Such statement shall be executed by the corporation, by its president or a vice president, and verified by him and delivered to the secretary of state. If the secretary of state finds that such statement conforms to the provisions of this chapter, he shall file such statement in his office, and upon such filing the change of address of the registered office, or the appointment of a new registered agent, or both, as the case may be, shall become effective. [1969 ex.s. c 120 § 76.]

24.06.385 Resignation of registered agent. Any registered agent in this state appointed by a foreign corporation may resign as such agent upon filing a written notice thereof, executed in duplicate, with the secretary of state, who shall forthwith mail a copy thereof to the foreign corporation at its principal office in the state or country under the laws of which it is incorporated as shown by its most recent annual report. The appointment of such agent shall terminate upon the expiration

of thirty days after receipt of such notice by the secretary of state. [1969 ex.s. c 120 § 77.]

24.06.390 Service of process upon registered agent. The registered agent so appointed by a foreign corporation authorized to conduct affairs in this state shall be an agent of such corporation upon whom any process, notice or demand required or permitted by law to be served upon the corporation may be served. [1969 ex.s. c 120 § 78.]

24.06.395 Service of process upon secretary of state. Whenever a foreign corporation authorized to conduct affairs in this state shall fail to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot with reasonable diligence be found at the registered office, or whenever the certificate of authority of a foreign corporation shall be suspended or revoked, then the secretary of state shall be an agent of such corporation upon whom any such process, notice, or demand may be served. Service on the secretary of state of any such process, notice, or demand shall be made by delivering to and leaving with him, or with any clerk having charge of the corporation department of his office, duplicate copies of such process, notice or demand. In the event any such process, notice or demand is served on the secretary of state, he shall immediately cause one of such copies thereof to be forwarded by certified mail, addressed to the corporation at its principal office in the state or country under the laws of which it is incorporated. Any service so had on the secretary of state shall be returnable in not less than thirty days.

The secretary of state shall keep a record of all processes, notices and demands served upon him under this action, and shall record therein the time of such service and his action with reference thereto: *Provided*, That nothing contained in this section shall limit or affect the right to serve any process, notice or demand, required or permitted by law to be served upon a corporation in any other manner now or hereafter permitted by law. [1969 ex.s. c 120 § 79.]

24.06.400 Amendment to articles of incorporation of foreign corporation. Whenever the articles of incorporation of a foreign corporation authorized to conduct affairs in this state are amended, such foreign corporation shall, within thirty days after such amendment becomes effective, file in the office of the secretary of state a copy of such amendment duly authenticated by the proper officer designated under the laws of the state or country in which it is incorporated: *Provided*, That the filing thereof shall not of itself enlarge or alter the purpose or purposes for which such corporation is authorized to pursue in conducting its affairs in this state, nor authorize such corporation to conduct affairs in this state under any other name than the name set forth in its certificate of authority. [1969 ex.s. c 120 § 80.]

24.06.405 Merger of foreign corporation authorized to conduct affairs in this state. Whenever a foreign corporation authorized to conduct affairs in this state shall be a party to a statutory merger permitted by the laws of the state or country under which it is incorporated, and such corporation shall be the surviving corporation, it shall, within thirty days after such merger becomes effective, file with the secretary of state a copy of the articles of merger duly authenticated by the proper officer designated under the laws of the state or country in which such statutory merger was effected; and it shall not be necessary for such corporation to procure either a new or amended certificate of authority to conduct affairs in this state unless the name of such corporation be changed thereby or unless the corporation desires to pursue in this state other or additional purposes than those which it is then authorized to pursue in this state. [1969 ex.s. c 120 § 81.]

24.06.410 Amended certificate of authority. A foreign corporation authorized to conduct affairs in this state shall apply for an amended certificate of authority in the event that it wishes to change its corporate name, or desires to pursue in this state purposes other or additional to those set forth in its initial application for a certificate of authority.

The requirements with respect to the form and content of such application, the manner of its execution, the filing, the issuance of an amended certificate of authority, and the effect thereof shall be the same as in the case of an original application for a certificate of authority. [1969 ex.s. c 120 § 82.]

24.06.415 Withdrawal of foreign corporation. A foreign corporation authorized to conduct affairs in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure such certificate of withdrawal, the foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

- (1) The name of the corporation and the state or country under whose laws it is incorporated.
- (2) A declaration that the corporation is not conducting affairs in this state.
- (3) A surrender of its authority to conduct affairs in this state.
- (4) A notice that the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in any action, suit or proceeding, based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state, may thereafter be made upon such corporation by service thereof on the secretary of state.
- (5) A post office address to which the secretary of state may mail a copy of any process that may be served on him as agent for the corporation.

The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation, by its president or a vice president, and by its secretary or an assistant secretary, and shall be verified by one of the officers

signing the application, or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by such receiver or trustee, and verified by him. [1969 ex.s. c 120 § 83.]

24.06.420 Filing of application for withdrawal— Issuance of certificate of withdrawal. Duplicate originals of an application for withdrawal shall be delivered to the secretary of state. If the secretary of state finds that such application conforms to the provisions of this chapter, he shall, when all fees have been paid as prescribed in this chapter:

(1) Endorse on each of such duplicate originals the word "filed", and the month, day and year of the filing thereof.

(2) File one of such duplicate originals in his office.

(3) Issue a certificate of withdrawal to which he shall affix the other duplicate original.

The certificate of withdrawal, together with the duplicate original of the application for withdrawal affixed thereto by the secretary of state, shall be returned to the corporation or its representative. Upon the issuance of such certificate of withdrawal, the authority of the corporation to conduct affairs in this state shall cease. [1969 ex.s. c 120 § 84.]

24.06.425 Revocation of certificate of authority. (1) The certificate of authority of a foreign corporation to conduct affairs in this state may be revoked by the secretary of state upon the conditions prescribed in this section when:

(a) The corporation has failed to file its annual report within the time required by this chapter or has failed to pay any fees or penalties prescribed by this chapter as they become due and payable; or

(b) The corporation has failed to appoint and maintain a registered agent in this state as required by this chapter; or

(c) The corporation has failed, after change of its registered agent, to file in the office of the secretary of state a statement of such change as required by this chapter; or

(d) The corporation has failed to file in the office of the secretary of state any amendment to its articles of incorporation or any articles of merger within the time prescribed by this chapter; or

(e) The certificate of authority of the corporation was procured through fraud practiced upon the state; or

(f) The corporation has continued to exceed or abuse the authority conferred upon it by this chapter; or

(g) A misrepresentation has been made as to any material matter in any application, report, affidavit, or other document, submitted by such corporation pursuant to this chapter.

(2) No certificate of authority of a foreign corporation shall be revoked by the secretary of state unless he shall have given the corporation not less than sixty days' notice thereof by mail addressed to its registered office in this state, and the corporation shall have failed prior to revocation to (a) file such annual report, (b) pay such fees or penalties, (c) file the required statement of change of registered agent, (d) file such articles of

amendment or articles of merger, or (e) correct any material misrepresentation in its application, report, affidavit, or other document. [1969 ex.s. c 120 § 85.]

24.06.430 Issuance of certificate of authority. Upon revoking any such certificate of authority, the secretary of state shall:

(1) Issue a certificate of revocation in duplicate.

(2) File one of such certificates in his office.

(3) Mail to such corporation at its registered office in this state a notice of such revocation accompanied by one of the two certificates of revocation.

Upon issuance of the certificate of revocation, the corporate authority to conduct affairs in this state shall cease. [1969 ex.s. c 120 § 86.]

24.06.435 Conducting affairs without certificate of authority. No foreign corporation conducting affairs in this state without a certificate of authority shall be permitted to maintain any action, suit, or proceeding in any court of this state until such corporation shall have obtained a certificate of authority. Nor shall any action, suit or proceeding be maintained in any court of this state by any successor or assignee of such corporation on any right, claim, or demand arising out of the conduct of affairs by such corporation in this state until a certificate of authority shall have been obtained by the corporation or by a valid corporation which has (1) acquired all or substantially all of its assets and (2) assumed all of its liabilities: *Provided*, That the failure of a foreign corporation to obtain a certificate of authority to conduct affairs in this state shall not impair the substantive validity of any contract or act of such corporation, and shall not prevent such corporation from defending any action, suit or proceeding in any court of this state under such terms and conditions as a court may find just. [1969 ex.s. c 120 § 87.]

24.06.440 Annual report of domestic and foreign corporations. Each domestic corporation, and each foreign corporation authorized to conduct affairs in this state, shall file, within the time prescribed by this chapter, an annual report setting forth:

(1) The name of the corporation and the state or country under whose laws it is incorporated.

(2) The address of the registered office of the corporation in this state, including street and number, the name of its registered agent in this state at such address, and, in the case of a foreign corporation, the address of its principal office in the state or country under whose laws it is incorporated.

(3) A brief statement of the character of the affairs in which the corporation is engaged, or, in the case of a foreign corporation, engaged in this state.

(4) The names and respective addresses of the directors and officers of the corporation.

The information shall be given as of the date of the execution of the report. It shall be executed by the corporation by its president or a vice president, by a secretary, an assistant secretary or treasurer, and verified by the officer executing the report, or, if the corporation is in the hands of a receiver or trustee, it shall be executed

and verified on behalf of the corporation by such receiver or trustee. [1969 ex.s. c 120 § 88.]

24.06.445 Filing of annual report of domestic and foreign corporations. An annual report of each domestic or foreign corporation shall be delivered to the secretary of state between the first day of January and the first day of March of each year: *Provided*, That the first annual report of a domestic or foreign corporation shall be filed between the first day of January and the first day of March of the year next succeeding the calendar year in which its certificate of incorporation or its certificate of authority, as the case may be, was issued by the secretary of state. Deposit in the United States mails, in a sealed envelope, properly addressed to the secretary of state, with postage prepaid thereon, prior to the first day of March, shall be deemed compliance with this requirement.

If the secretary of state finds that a report substantially conforms to the requirements of this chapter, he shall file the same. [1973 c 146 § 1; 1969 ex.s. c 120 § 89.]

24.06.450 Fees for filing documents and issuing certificates. The secretary of state shall charge and collect for:

(1) Filing articles of incorporation and issuing a certificate of incorporation, twenty dollars.

(2) Filing articles of amendment and issuing a certificate of amendment, ten dollars.

(3) Filing articles of merger or consolidation and issuing a certificate of merger or consolidation, ten dollars.

(4) Filing a statement of change of address of registered office or change of registered agent, or both, one dollar.

(5) Filing articles of dissolution, five dollars.

(6) Filing an application of a foreign corporation for a certificate of authority to conduct affairs in this state and issuing a certificate of authority, twenty dollars.

(7) Filing an application of a foreign corporation for an amended certificate of authority to conduct affairs in this state and issuing an amended certificate of authority, five dollars.

(8) Filing a copy of an amendment to the articles of incorporation of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(9) Filing a copy of articles of merger of a foreign corporation holding a certificate of authority to conduct affairs in this state, ten dollars.

(10) Filing an application for withdrawal of a foreign corporation and issuing a certificate of withdrawal, five dollars.

(11) Filing a certificate by a foreign corporation of the appointment of a registered agent, one dollar.

(12) Filing a certificate by a foreign corporation of the revocation of the appointment of a registered agent, one dollar.

(13) Filing any other statement or report, including an annual report, of a domestic or foreign corporation, one dollar. [1973 c 70 § 2; 1969 ex.s. c 120 § 90.]

24.06.455 Miscellaneous charges. The secretary of state shall charge and collect:

(1) Fifty cents per page and two dollars for the certificate and affixing the seal thereto for furnishing a certified copy of any document, instrument, or paper relating to a corporation.

(2) Five dollars at the time of any service of process on him as resident agent of any corporation, which may be recovered as taxable costs by the party to the suit or action if such party prevails. [1973 c 70 § 3; 1969 ex.s. c 120 § 91.]

24.06.460 Disposition of fees. Any money received by the secretary of state under the provisions of this chapter shall be deposited forthwith into the state treasury. [1969 ex.s. c 120 § 92.]

24.06.465 Penalties imposed upon corporation. Each corporation, domestic or foreign, which fails or refuses to file its annual report for any year within the time prescribed by this chapter shall be subject to a penalty of five dollars to be assessed by the secretary of state.

Each corporation, domestic or foreign, which fails or refuses to answer truthfully and fully within the time prescribed by this chapter any interrogatories propounded by the secretary of state in accordance with the provisions of this chapter, shall be deemed to be guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not to exceed five hundred dollars on each count. [1969 ex.s. c 120 § 93.]

24.06.470 Penalties imposed upon directors and officers. Each director and officer of a corporation, domestic or foreign, who fails or refuses within the time prescribed by this chapter, to answer truthfully and fully any interrogatories propounded to him by the secretary of state in accordance with the provisions of this chapter, or who signs any articles, statement, report, application, or other document filed with the secretary of state, which is known to such officer or director to be false in any material respect, shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall be fined in an amount not to exceed five hundred dollars on each count. [1969 ex.s. c 120 § 94.]

24.06.475 Interrogatories by secretary of state. The secretary of state may propound to any corporation, domestic or foreign, subject to the provisions of this chapter, and to any officer or director thereof such interrogatories as may be reasonably necessary and proper to enable him to ascertain whether such corporation has complied with all of the provisions of this chapter applicable to such corporation. All such interrogatories shall be answered within thirty days after the mailing thereof, or within such additional time as shall be fixed by the secretary of state, and the answers thereto shall be full and complete, made in writing, and under oath. If such interrogatories are directed to an individual, they shall be answered personally by him, and if directed to the corporation they shall be answered by the president, a vice president, a secretary or any assistant secretary thereof. The secretary of state need

not file any document to which such interrogatories relate until such interrogatories are answered as required by this section, and even not then if the answers thereto disclose that the document is not in conformity with the provisions of this chapter.

The secretary of state shall certify to the attorney general, for such action as the attorney general may deem appropriate, all interrogatories and answers thereto which disclose a violation of any of the provisions of this chapter.

The provisions of this section shall not apply to a domestic or foreign corporation which, by declaration, order or ruling of the internal revenue service of the United States, is exempt from the obligation to file income tax return. [1969 ex.s. c 120 § 95.]

24.06.480 Confidential nature of information disclosed by interrogatories. Interrogatories propounded by the secretary of state and the answers thereto shall not be open to public inspection, nor shall the secretary of state disclose any facts or information obtained therefrom unless (1) his official duty may require that the same be made public, or (2) such interrogatories or the answers thereto are required for use in evidence in any criminal proceedings or other action by the state. [1969 ex.s. c 120 § 96.]

24.06.485 Powers of secretary of state. The secretary of state shall have all power and authority reasonably necessary to enable him to administer this chapter efficiently and to perform the duties therein imposed upon him. [1969 ex.s. c 120 § 97.]

24.06.490 Appeal from secretary of state's actions. (1) If the secretary of state shall fail to approve any articles of incorporation, amendment, merger, consolidation, or dissolution, or any other document required by this chapter to be approved by the secretary of state before the same shall be filed in his office, he shall, within ten days after the delivery of such document to him, give written notice of his disapproval to the person or corporation, domestic or foreign, delivering the same, specifying the reasons therefor. The person or corporation may apply to the superior court of the county in which the registered office of such corporation is situated, or is proposed, in the document, by filing a petition with the clerk of such court setting forth a copy of the articles or other document tendered to the secretary of state, together with a copy of the written disapproval thereof by the secretary of state; whereupon the matter shall be tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.

(2) If the secretary of state shall revoke the certificate of authority to conduct affairs in this state of any foreign corporation, such foreign corporation may likewise apply to the superior court of the county where the registered office of such corporation in this state is situated, by filing with the clerk of such court a petition setting forth a copy of its certificate of authority to conduct affairs in this state and a copy of the notice of revocation given by the secretary of state; whereupon the matter shall be

tried to the court on all questions of fact and law; and the court shall either sustain or overrule the action of the secretary of state.

(3) Appeals from all final orders and judgments entered by the superior court under this section, in the review of any ruling or decision of the secretary of state may be taken as in other civil actions. [1969 ex.s. c 120 § 98.]

24.06.495 Certificates and certified copies to be received in evidence. All certificates issued by the secretary of state in accordance with the provisions of this chapter, and all copies of documents filed in his office in accordance with the provisions of this chapter when certified by him, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the facts therein stated. A certificate by the secretary of state under the seal of this state, as to the existence or nonexistence of the facts relating to corporations which would not appear from a certified copy of any of the foregoing documents or certificates, shall be taken and received in all courts, public offices, and official bodies as prima facie evidence of the existence or nonexistence of the facts therein stated. [1969 ex.s. c 120 § 99.]

24.06.500 Greater voting requirements. Whenever, with respect to any action to be taken by the members, shareholders or directors of a corporation, the articles of incorporation require the vote or concurrence of a greater proportion of the members, shareholders or directors, as the case may be, than required by this chapter with respect to such action, the provisions of the articles of incorporation shall control. [1969 ex.s. c 120 § 100.]

24.06.505 Waiver of notice. Whenever any notice is required to be given to any member, shareholder or director of a corporation under the provisions of this chapter or under the provisions of the articles of incorporation or bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether made before or given after the time stated therein, shall be equivalent to the giving of such notice. [1969 ex.s. c 120 § 101.]

24.06.510 Action by members or directors without a meeting. Any action required by this chapter to be taken at a meeting of the members, shareholders or directors of a corporation, or any action which may be taken at a meeting of the members, shareholders or directors, may be taken without a meeting, if a consent in writing, setting forth the action so taken, is signed by all of the members and shareholders entitled to vote thereon, or by all of the directors, as the case may be, unless the articles or bylaws provide to the contrary.

Such consent shall have the same force and effect as a unanimous vote, and may be stated as such in any articles or document filed with the secretary of state. [1969 ex.s. c 120 § 102.]

24.06.515 Unauthorized assumption of corporate powers. All persons who assume to act as a corporation

without authority so to do shall be jointly and severally liable for all debts and liabilities incurred or arising as a result thereof. [1969 ex.s. c 120 § 103.]

24.06.520 Reinstatement and renewal of corporate existence. If the term of existence of a corporation which was organized under this chapter, or which has availed itself of the privileges thereby provided expires, such corporation shall have the right to renew the term of its existence for a definite period or perpetually and to be reinstated under any name not then in use by a domestic corporation organized under any act of this state or a foreign corporation authorized under any act of this state to transact business or conduct affairs in this state. To do so the directors, members and officers shall adopt amended articles of incorporation containing a certification that the purpose thereof is a reinstatement and renewal of the corporate existence; and they shall proceed in accordance with the provisions of this chapter for the adoption and filing of amendments to articles of incorporation. Thereupon such corporation shall be reinstated and its corporate existence renewed as of the date on which its previous term of existence expired and all things done or omitted by it or by its officers, directors, agents and members before such reinstatement shall be as valid and have the same legal effect as if its previous term of existence had not expired. [1969 ex.s. c 120 § 106.]

Reinstatement fee: See RCW 24.06.915.

24.06.525 Reorganization of corporations or associations in accordance with this chapter. Any corporation or association organized under any other statute may be reorganized under the provisions of this chapter by adopting and filing amendments to its articles of incorporation in accordance with the provisions of this chapter for amending articles of incorporation. The articles of incorporation as amended must conform to the requirements of this chapter, and shall state that the corporation accepts the benefits and will be bound by the provisions of this chapter. [1969 ex.s. c 120 § 107.]

24.06.900 Short title. This chapter shall be known and may be cited as the "Miscellaneous and Mutual Corporation Act". [1969 ex.s. c 120 § 104.]

24.06.905 Existing liabilities not terminated—Continuation of corporate existence—Application of chapter. The enactment of this chapter shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence at the date this chapter becomes effective; and any corporation existing under any prior law which expires on or before the date when this chapter takes effect shall continue its corporate existence: *Provided*, That this chapter shall apply prospectively to all existing corporations which do not otherwise qualify under the provisions of Titles 23A and 24 RCW, to the extent permitted by the Constitution of this state and of the United States. [1969 ex.s. c 120 § 105.]

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24.06.910 Severability—1969 ex.s. c 120. 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, and the effect of such invalidity shall be confined to the clause, sentence, paragraph, section or part of this chapter so held to be invalid. [1969 ex.s. c 120 § 108.]

24.06.915 Notice to existing corporations. The secretary of state shall notify all existing miscellaneous and mutual corporations thirty days prior to the date this chapter becomes effective as to their requirements for filing an annual report. If such notification from the secretary of state to any corporation is returned unclaimed, the secretary of state shall proceed to dissolve the corporation by striking the name of such corporation from the records on file in his office.

Corporations may be reinstated upon paying a five dollar fee in addition to any other fees that may be due or owing the secretary of state and filing its annual report. Thereupon such corporation shall be reinstated and its corporate existence renewed as of the date on which it was so dissolved, and all things done or omitted by its officers, directors, agents and members before such reinstatement shall be as valid and have the same legal effect as if the corporation had not been so dissolved. [1969 ex.s. c 120 § 109.]

*Effective date of this chapter is July 1, 1969: See RCW 24.06.920.
Reinstatement and renewal of corporate existence: RCW 24.06.520.*

24.06.920 Effective date—1969 ex.s. c 120. This chapter 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, 1969: *Provided*, That no corporation existing on the effective date of this chapter shall be required to conform to the provisions of this chapter until July 1, 1971. [1969 ex.s. c 120 § 110.]

Chapter 24.12 CORPORATIONS SOLE

Sections

24.12.010	Corporations sole—Church and religious societies.
24.12.020	Corporate powers.
24.12.030	Filing articles—Property held in trust.
24.12.040	Existing corporations sole.

24.12.010 Corporations sole—Church and religious societies. Any person, being the bishop, overseer or presiding elder of any church or religious denomination in this state, may, in conformity with the constitution, canons, rules, regulations or discipline of such church or denomination, become a corporation sole, in the manner prescribed in this chapter, as nearly as may be; and, thereupon, said bishop, overseer or presiding elder, as the case may be, together with his successors in office or position, by his official designation, shall be held and deemed to be a body corporate, with all the rights and powers prescribed in the case of corporations aggregate; and with all the privileges provided by law for religious corporations. [1915 c 79 § 1; RRS § 3884.]

24.12.020 Corporate powers. Every corporation sole shall, for the purpose of the trust, have power to contract in the same manner and to the same extent as a natural person, and may sue and be sued, and may defend in all courts and places, in all matters and proceedings whatever, and shall have authority to borrow money and give promissory notes therefor, and to secure the payment of the same by mortgage or other lien upon property, real and personal; to buy, sell, lease, mortgage and in every way deal in real and personal property in the same manner as a natural person may, and without the order of any court; to receive bequests and devises for its own use or upon trusts, to the same extent as natural persons may; and to appoint attorneys in fact. [1915 c 79 § 2; RRS § 3885.]

24.12.030 Filing articles—Property held in trust. Articles of incorporation shall be filed in like manner as provided by law for corporations aggregate, and therein shall be set forth the facts authorizing such incorporation, and declare the manner in which any vacancy occurring in the incumbency of such bishop, overseer or presiding elder, as the case may be, is required by the constitution, canons, rules, regulations or discipline of such church or denomination to be filled, which statement shall be verified by affidavit, and for proof of the appointment or election of such bishop, overseer or presiding elder, as the case may be, or any succeeding incumbent of such corporation, it shall be sufficient to file with the secretary of state and in the office of the county auditor of the county in which such bishop, overseer or presiding elder, as the case may be, resides, the original or a copy of his commission, or certificate, or letters of election or appointment, duly attested: *Provided*, All property held in such official capacity by such bishop, overseer or presiding elder, as the case may be, shall be in trust for the use, purpose, benefit and behoof of his religious denomination, society or church. [1915 c 79 § 3; RRS § 3886.]

24.12.040 Existing corporations sole. Any corporation sole heretofore organized and existing under the laws of this state may elect to continue its existence under *this title [chapter] by filing a certificate to that effect, under its corporate seal and the hand of its incumbent, or by filing amended articles of incorporation, in the form, as near as may be, as provided for corporations aggregate, and from and after the filing of such certificate of amended articles, such corporation shall be entitled to the privileges and subject to the duties, liabilities and provisions in *this title [chapter] expressed. [1915 c 79 § 4; RRS § 3887.]

***Reviser's note:** The language "this title" appeared in chapter 79, Laws of 1915, an independent act, codified herein as chapter 24.12 RCW.

Chapter 24.20 FRATERNAL SOCIETIES

Sections	
24.20.010	Incorporation—Articles.
24.20.020	Filing fee.
24.20.030	Powers—Not subject to license fees.

24.20.040 Reincorporation.

Fraternal benefit societies: Chapter 48.36 RCW.

24.20.010 Incorporation—Articles. Any grand lodge, encampment, chapter or any subordinate lodge or body of Free and Accepted Masons, Independent Order of Odd Fellows, Knights of Pythias, or other fraternal society, desiring to incorporate, shall make articles of incorporation in triplicate, and file one of such articles in the office of the secretary of state and another in the office of the county auditor of the county in which the meetings of such lodge, chapter or encampment are held; such articles shall be signed by the presiding officer and the secretary of such lodge, chapter or encampment, and attested by the seal thereof, and shall specify:

(1) The name of such lodge or other society, and the place of holding its meetings;

(2) the name of the grand body from which it derives its rights and powers as such lodge or society; or if it be a grand lodge, the manner in which its powers as such grand lodge are derived;

(3) the names of the presiding officer and the secretary having the custody of the seal of such lodge or society;

(4) what officers shall join in the execution of any contract by such lodge or society to give it force and effect in accordance with the usages of such lodges or society. [1925 ex.s. c 63 § 1; 1903 c 80 § 1; RRS § 3865. Cf. Code 1881 § 2452; 1873 p 410 § 3.]

24.20.020 Filing fee. The secretary of state shall file such articles of incorporation in his office and issue a certificate of incorporation to any such lodge or other society upon the payment of the sum of five dollars. [1903 c 80 § 2; RRS § 3866.]

24.20.030 Powers—Not subject to license fees. Such lodge or other society shall be a body politic and corporate with all the powers and incidents of a corporation upon its compliance with RCW 24.20.010 and 24.20.020: *Provided, however*, That such fraternal corporation shall not be subject to any license fee or other corporate tax of commercial corporations. [1903 c 80 § 3; RRS § 3867.]

24.20.040 Reincorporation. Any lodge or society, or the members thereof, having heretofore attempted to incorporate as a body under the provisions of an act entitled "An act to provide for the incorporation of associations for social, charitable and educational purposes," approved March 21st, 1895 [*chapter 24.16 RCW], such lodge or society may incorporate under its original corporate name by complying with the provisions of RCW 24.20.010 and 24.20.020: *Provided*, That such lodge or society shall attach to and file with the articles of incorporation provided for in this chapter a certificate duly signed, executed and attested by the officers of the said corporation consenting to such reincorporation and waiving all rights of the original corporation to such corporate name. [1903 c 80 § 4; RRS § 3868.]

*Reviser's note: "chapter 24.16 RCW" was repealed by the Washington Nonprofit Corporation Act, chapter 235, Laws of 1967, (chapter 24.03 RCW).

Chapter 24.24
BUILDING CORPORATIONS COMPOSED OF
FRATERNAL SOCIETY MEMBERS

Sections

24.24.010	Who may incorporate—Filing fee.
24.24.020	Articles—Contents.
24.24.030	Powers.
24.24.040	Membership certificates.
24.24.050	Bylaws.
24.24.060	Membership—Trustees—Elections.
24.24.070	Control of business—Officers.
24.24.080	Right of corporations under the statutes.
24.24.090	Certificates of capital stock.
24.24.100	Fees.
24.24.110	Exemption from ordinary corporate taxes.

24.24.010 Who may incorporate—Filing fee. Any ten or more residents of this state who are members of any chartered body or of different chartered bodies of any fraternal order or society who shall desire to incorporate for the purpose of owning real or personal property or both real and personal property for the purpose and for the benefit of such bodies, may make and execute articles of incorporation, which shall be executed in triplicate, and shall be subscribed by each of the persons so associating themselves together, and shall be acknowledged before some officer authorized to take the acknowledgment of deeds; *Provided*, That no lodge shall be incorporated contrary to the provisions of the laws and regulations of the order or society of which it is a constituent part. Such articles, at the election of the incorporators, may either provide for the issuing of capital stock or for incorporation as a society of corporation without shares of stock. One of such articles shall be filed in the office of the secretary of state, accompanied by a filing fee of five dollars; another of such articles shall be filed and recorded in the office of the auditor of the county where the organization is located, and the third of such articles shall be preserved in the records of the corporation. [1927 c 190 § 1; RRS § 3887-1 .]

24.24.020 Articles—Contents. The articles of incorporation shall set forth;

(1) The names of the persons so associating themselves together, their places of residence and the name and location of the lodge, chapter, or society to which they severally belong;

(2) The corporate name assumed by the corporation and the duration of the same if limited;

(3) The purpose of the association, which shall be to provide, maintain and operate a building or buildings to be used for fraternal and social purposes, and for the benefit of the several bodies represented in such association;

(4) The place where the corporation proposes to have its principal place of business;

(5) The amount of capital stock and the par value thereof per share, if it shall be organized as a joint stock company. [1927 c 190 § 2; RRS § 3887-2 .]

24.24.030 Powers. Upon making and filing such articles of incorporation the persons subscribing the same and their successors in office and associates, by the name assumed in such articles, shall thereafter be deemed a body corporate, and may acquire and possess real and personal property and may erect and own suitable building or buildings to be used, in whole or in part, for meetings of fraternal bodies, and for all social and fraternal purposes of the several bodies represented in the membership of the corporation, and may exercise all other powers that may lawfully be exercised by other corporations organized under the general incorporation laws of Washington, including the power to borrow money, and for that purpose may issue its bonds and mortgage its property to secure the payment of such bonds. [1927 c 190 § 3; RRS § 3887-3 .]

24.24.040 Membership certificates. If the corporation shall not be a joint stock company, then it may provide by its bylaws for issuing to the several bodies represented in its membership certificates of participation, which shall evidence the respective equitable interests of such bodies in the properties held by such corporation. [1927 c 190 § 4; RRS § 3887-4 .]

24.24.050 Bylaws. Every such corporation shall have full power and authority to provide by its bylaws for the manner in which such certificates of participation of its certificates or shares of stock shall be held and represented, and may also in like manner provide, that its shares of stock shall not be transferred to, or be held or owned by any person, or by any corporation other than a chartered body of the order or society represented in its membership. [1927 c 190 § 5; RRS § 3887-5 .]

24.24.060 Membership—Trustees—Elections. Every such corporation shall have power to provide by its bylaws for succession to its original membership and for new membership, and also for the election from its members of a board of trustees, or a board of directors, and to fix the number and term of office of such trustees or directors; *Provided*, That there shall always be upon such board of trustees or board of directors at least one representative from each of the several bodies represented in the membership of the association, and the term of office of a trustee shall not exceed three years. [1927 c 190 § 6; RRS § 3887-6 .]

24.24.070 Control of business—Officers. The management and control of the business and property of such corporation shall be fixed in said board of trustees or board of directors, as the case may be. Said trustees or directors shall elect from their own number at each annual meeting of the corporation a president, vice president, secretary and treasurer, who shall perform the duties of their respective office in accordance with the bylaws of the corporation and the rules and regulations prescribed by the board of trustees or board of directors. [1927 c 190 § 7; RRS § 3887-7.]

24.24.080 Right of corporations under the statutes. Any corporation composed of fraternal organizations

and/or members of fraternal organizations, heretofore incorporated under the laws of the state of Washington, may elect to subject [the] corporation and its capital stock and the rights of its stockholders therein to the provisions of this chapter by a majority vote of its trustees or directors and the unanimous assent or vote of the capital stock of such corporation.

If the unanimous written assent of the capital stock has not been obtained then the unanimous vote of all of the stockholders may be taken at any regular meeting of the stockholders or at any special meeting of the stockholders called for that purpose in the manner provided by the bylaws of such corporation for special meetings of the stockholders.

The president and secretary of such corporation shall certify said amendment in triplicate under the seal of such corporation as having been adopted by a majority vote of its trustees or directors and by the unanimous written assent or vote as the case may be of all of its stockholders, and file and keep the same as in the case of original articles; and from the time of filing said certificate such corporation and its capital stock and the rights of its stockholders therein shall be subject to all of the provisions of this chapter; *Provided*, That nothing in this chapter shall affect the rights of the third person, pledgees of any shares of such capital stock, in such pledged stock, under pledges subsisting at the date of the filing of said amendment. [1927 c 190 § 8; RRS § 3887-8.]

24.24.090 Certificates of capital stock. All certificates of capital stock of corporations incorporated under or becoming subject to the provisions of this chapter shall have expressly stated on the face thereof that such corporation and its capital stock and the rights of stockholders therein are subject to the provisions of this chapter and that its capital stock is not assignable or transferable except as in this chapter provided. [1927 c 190 § 9; RRS § 3887-9.]

24.24.100 Fees. The secretary of state shall file such articles of incorporation or amendment thereto in his office and issue a certificate of incorporation or amendment, as the case may be, to such fraternal association upon the payment of a fee in the sum of five dollars. [1927 c 190 § 10; RRS § 3887-10.]

24.24.110 Exemption from ordinary corporate taxes. Such fraternal association shall be a body politic and corporate with all powers and incidents of a corporation upon its compliance with the provisions of this chapter; *Provided, however*, That such fraternal corporation shall not be subject to any license fee or other corporate tax of commercial corporations. [1927 c 190 § 11; RRS § 3887-11.]

Chapter 24.28 GRANGES

Sections

24.28.010	Manner of incorporating a grange.
24.28.020	In what pursuits such corporation may engage.
24.28.030	General rights and liabilities.
24.28.040	Use of term "grange" — "Person" defined.

24.28.010 Manner of incorporating a grange. Any grange of the patrons of husbandry, desiring hereafter to incorporate, may incorporate and become bodies politic in this state, by filing in the office of the secretary of state of Washington, and in the office of the county auditor of the county wherein such grange holds its meetings of business, a certificate or article subscribed and acknowledged by not less than five members of such grange and by the master of the Washington state grange embodying:

(1) The name of such grange and the place of holding its meetings.

(2) What elective officers the said grange will have, when such officers shall be elected; how, and by whom, the business of the grange shall be conducted or managed, and what officers shall join in the execution of any contract by such grange to give force and effect in accordance with the usages of the order of the patrons of husbandry; such articles shall be subscribed by the master of such grange attested by the secretary, with the seal of the grange.

(3) A copy of the bylaws of such grange shall also be filed in the said office of the secretary of state and the county auditor of the proper county.

(4) The names of all such officers at the time of filing the application, and the time for which they may be respectively elected. When such articles shall be filed, such grange shall be a body politic and corporate, with all the incidents of a corporation, subject nevertheless to the laws and parts of laws now in force or hereafter to be passed regulating corporations. [1959 c 207 § 1; 1875 p 97 § 1; RRS § 3901. FORMER PART OF SECTION: 1875 c 97 § 2, part, now codified in RCW 24.28.020.]

24.28.020 In what pursuits such corporation may engage. Said grange may engage in any industrial pursuit, manufacturing, mining, milling, wharfing, docking, commercial, mechanical, mercantile, building, farming, building, equipping or running railroads, or generally engage in any species of trade or industry; loan money on security, purchase and sell on real estate, but when desiring to engage in either or any of the above pursuits or industries, said grange shall be subject to all the conditions and liabilities imposed by the provisions of the general corporation laws, and in addition to the conditions to be performed as recited in RCW 24.28.010, shall file additional articles with said secretary of state, and the county auditor of the proper county, stating the object, business or industry proposed to be pursued or engaged in; the amount of capital stock, the time of its existence, not to exceed fifty years; the number of shares of which the capital stock shall consist, and price per share, and the names of officers necessary to manage said business, and the places where said officers shall pursue the same. [1875 p 97 § 2; RRS § 3902. Formerly RCW 24.28.010, part and 24.28.020.]

24.28.030 General rights and liabilities. As a business corporation said grange, after having complied with RCW 24.28.020, shall be to all intents and purposes a domestic corporation, with all the rights, privileges and

immunities allowed, and all the liabilities imposed by chapter one of the act entitled "an act to provide for the formation of corporations," approved November 13, 1873. [1875 p 98 § 3; RRS § 3903.]

Reviser's note: The reference to chapter one of the 1873 act relates to the general corporation act in effect at the time the above section was enacted. Such general corporation laws were also compiled as Code 1881 §§ 2421-2449. See also table of prior laws following the Title 23 RCW digest.

24.28.040 Use of term "grange"—"Person" defined. No person, doing business in this state shall be entitled to use or to register the term "grange" as part or all of his business name or other name or in connection with his products or services, or otherwise, unless either (1) he has complied with the provisions of this chapter or (2) he has obtained written consent of the Washington state grange certified thereto by its master. Any person violating the provisions of this section may be enjoined from using or displaying such name and doing business under such name at the instance of the Washington state grange or any grange organized under this chapter, or any member thereof: *Provided*, That nothing herein shall prevent the continued use of the term "grange" by any person using said name prior to the adoption of *this act.

For the purposes of this section "person" shall include any person, partnership, corporation, or association of individuals. [1959 c 207 § 2.]

***Reviser's note:** "this act" first appeared in chapter 207, Laws of 1959, section 1 of which amended RCW 24.28.010.

Chapter 24.32

AGRICULTURAL COOPERATIVE ASSOCIATIONS

Sections

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24.32.400	Annual license fee.
24.32.410	Fees for filing articles of incorporation.

24.32.900 Severability—1921 c 115.

Commission merchants act does not apply to associations incorporated under this chapter: RCW 20.01.030.

Crop credit associations: Chapter 31.16 RCW.

24.32.010 Definitions. (1) The term "agricultural products" whenever used in this chapter shall include horticultural, viticultural, forestry, dairy, livestock, poultry, bee and farm products.

(2) The term "members" wherever used in this chapter shall include actual members of associations without capital stock and holders of common stock in associations organized with capital stock.

(3) The term "association" wherever used in this chapter means any corporation organized under this chapter.

(4) The term "person" wherever used in this chapter shall include individuals, firms, partnerships, corporations and associations.

Associations organized hereunder shall be deemed nonprofit, inasmuch as they are not organized to make profits for themselves as such, or for their members as stockholders, but only for their members as producers of agricultural products. [1941 c 195 § 1; 1921 c 115 § 1; Rem. Supp. 1941 § 2878.]

24.32.020 Who may organize. Five or more persons engaged in the production of agricultural products may form a nonprofit, cooperative association, with or without capital stock, under the provisions of this chapter. [1921 c 115 § 2; RRS § 2879.]

24.32.030 Purpose of organization. An association may be organized to engage in any activity in connection with the marketing or selling of the agricultural products of its members, or with the harvesting, preserving, drying, processing, canning, packing, storing, handling, shipping, or utilization thereof, or the manufacturing or marketing of the byproducts thereof; or in connection with the manufacturing, selling or supplying to its members of machinery, equipment or supplies, or in the financing of the above enumerated activities; or in any one or more of the activities specified herein. [1921 c 115 § 3; RRS § 2880.]

24.32.040 Director of agriculture to assist in organization. Every group of persons contemplating the organization of an association or corporation under this chapter shall communicate with the director of agriculture, whose duty it will be to advise with and assist them regarding the manner of organization and the preparation of the marketing contract between the corporation formed or to be formed and the members thereof: *Provided*, That such corporation shall not commence business or solicit members thereof until the form of said marketing contract shall have been approved by the director of agriculture. [1921 c 115 § 4; RRS § 2881.]

24.32.050 Powers of association. Each association incorporated under this chapter shall have the following powers:

(1) To engage in any activity in connection with the marketing, selling, harvesting, preserving, drying, processing, canning, packing, storing, handling or utilization of any agricultural products produced or delivered to it by its members; or the manufacturing or marketing of the byproducts thereof; or in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities; or in any one or more of the activities specified in this section; or transact such business with or for nonmembers of the association to an amount in any one fiscal year, not to exceed the amount transacted with members in such year.

(2) To borrow money and to make advances to members.

(3) To act as the agent or representative of any member or members in any of the above mentioned activities.

(4) To purchase or otherwise acquire, and to hold, own, and exercise all rights of ownership in, and to sell, transfer, or pledge shares of the capital stocks or bonds of any corporation or association engaged in any related activity or in the handling or marketing of any of the products handled by the association or corporate obligations eligible for the investment of trust funds by trust companies as provided by law.

(5) To establish reserves and to invest the funds thereof in bonds or such other property as may be provided in the bylaws.

(6) To buy, hold and exercise all privileges of ownership, over such real or personal property as may be necessary or convenient for the conducting and operation of any of the business of the association or incidental thereto.

(7) To do each and everything necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects herein enumerated; or conducive to or expedient for the interest or benefit of the associations; and to contract accordingly; and in addition to exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and in addition any other rights, powers and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter; and to do any such thing anywhere.

(8) To continue as a corporation for the time limited in its articles of incorporation or if no such time limit is specified, then perpetually. [1959 c 132 § 1; 1931 c 16 § 1; 1921 c 115 § 5; RRS § 2882.]

24.32.060 Membership and stock of association. (1) Under the terms and conditions prescribed in its bylaws, any association may admit as members, or issue common stock only to persons engaged in the production of agricultural products, or may at its option limit the issuance of common stock or membership to persons only engaged in the production of agricultural products, to be handled by or through the association, including the lessees and tenants of land used for the production of such products

and any lessors and landlords who receive as rent part of the crop raised on the leased premises.

(2) If a member of a nonstock association be other than a natural person, such member may be represented by any individual, officer or member thereof, duly authorized in writing.

(3) Any association organized hereunder may become a member or stockholder of any other association or associations organized hereunder.

(4) Any member of an association organized under this chapter who for a period of thirty days, or such longer period, not to exceed six months, as may be prescribed by the bylaws, shall cease to produce agricultural products for such association, and, if the association is engaged in furnishing supplies, machinery and equipment to members, shall cease, for a like period, to purchase from such association, shall be classified as an associate member. Any member who resigns from active membership may be classified as an associate member. Voting rights of associate members may be prohibited or restricted as prescribed in the bylaws of the association.

Preferred stockholders engaged in the production of agricultural products may have all the rights and privileges of active members.

(5) Any association organized under the provisions of this chapter may purchase the stock or the membership of any associate member with any available funds of the association, whether surplus or not. [1943 c 99 § 1; 1941 c 195 § 2; 1925 ex.s. c 102 § 1; 1921 c 115 § 6; Rem. Supp. 1943 § 2883.]

24.32.070 Articles of incorporation. Each association formed under this chapter must prepare and file articles of incorporation, setting forth:

(1) The name of the association.

(2) The purpose for which it is formed.

(3) The place where its principal business will be transacted.

(4) The term for which it is to exist, which may be perpetual.

(5) The number of directors thereof, which must not be less than five and may be any number in excess thereof, and the term of office of such directors, which term shall not exceed three years as may be provided by the bylaws of the association.

(6) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rule or rules applicable to all members by which the property rights and interests, respectively, of each member may and shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules. This provision of the articles of incorporation shall not be altered, amended, or repealed except by the written consent or the vote of two-thirds of the members voting upon such change after notice of the proposed change shall have been given to all members entitled to vote thereon, in the manner provided by the bylaws: *Provided*, That if the total vote upon the proposed change shall be less than twenty-five

percent of the total membership of the association, such change shall fail of adoption.

(7) If organized with capital stock, the amount of such stock and the number of shares into which it is divided. The capital stock may be divided into preferred and common stock which stock may be of a fixed par value or nonpar value. If so divided, the articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and privileges granted to each.

(8) The articles must be subscribed by the incorporators and acknowledged by three or more of such incorporators before an officer authorized by the law of this state to take and certify acknowledgments of deeds and conveyances; and shall be filed in accordance with the provisions of the general corporation law of this state; and when so filed the said articles of incorporation, or certified copies thereof, shall be received in all the courts of this state and other places, as prima facie evidence of the facts contained therein and of the due incorporation of such association. [1959 c 132 § 2; 1931 c 16 § 2; 1921 c 115 § 7; RRS § 2884.]

24.32.080 Amendments of articles. The articles of incorporation may be altered or amended in any respect so as to include any provision authorized by this chapter or so as to extend the period of its duration for a further definite time or perpetually at any regular meeting or at any special meeting called for that purpose. An amendment must first be approved by a majority of the directors and then adopted by a vote of two-thirds of the members voting upon such amendment after notice of the proposed amendment shall have been given to all members entitled to vote thereon, in the manner provided by the bylaws: *Provided*, That if the total vote upon the proposed amendment shall be less than twenty-five percent of the total membership of the association, such amendment shall fail of adoption. Amendments to the articles of incorporation when so adopted shall be filed in accordance with the provisions of the general corporation law of this state. [1959 c 132 § 3; 1931 c 16 § 3; 1921 c 115 § 8; RRS § 2885.]

Application of this section to certain transactions: RCW 24.32.310.

24.32.090 Bylaws. Each association incorporated under this chapter must, within thirty days after its incorporation, adopt, for its government and management a code of bylaws not inconsistent with the powers granted by this chapter, and may provide for voting by mail on any matter which may or shall be submitted to a vote of the membership of such association. The vote of two-thirds of the members voting thereon after notice of the proposed adoption, alteration or amendment shall have been given to all members entitled to vote thereon, in the manner provided by the bylaws, is necessary to adopt, alter or amend such bylaws: *Provided*, That if the total vote upon the proposed adoption, alteration or amendment shall be less than twenty-five percent of the total membership of the association, such adoption,

alteration or amendment shall not be approved. [1931 c 16 § 4; 1921 c 115 § 9; RRS § 2886.]

24.32.100 Meetings. In its bylaws each association shall provide for one or more regular meetings annually. The board of directors shall have the right to call a special meeting at any time, and ten percent of the members or stockholders may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. Such meeting must thereupon be called by the directors. Notice of all meetings, together with a statement of the purposes thereof, shall be mailed to each member at least ten days prior to the meeting. [1921 c 115 § 10; RRS § 2887.]

24.32.110 Board of directors. The affairs of the association shall be managed by a board of not less than five directors who shall be elected by the members or stockholders from their own number. The bylaws may provide that the territory in which the association has members shall be divided into districts and that the directors shall be elected according to such districts. In such a case the bylaws shall specify the numbers of directors to be elected by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association. The bylaws shall provide that primary elections shall be held in each district to select the directors apportioned to such districts and the result of all such primary elections must be ratified by the next regular meeting of the association. The bylaws of all associations hereafter organized or hereafter brought under the provisions of this chapter shall, if the director of agriculture so require, provide that one director shall be appointed by the director of agriculture, and no association whose bylaws now provide for the appointment of one or more directors by the director of agriculture, shall amend such bylaws so as to eliminate such appointed director without having first obtained the consent of the director of agriculture. The director so appointed need not be a member or stockholder of the association, but shall have the same powers and rights as other directors, and shall be regarded as representing the interests of the public. An association may provide a fair remuneration for the time actually spent by its officers and directors in its service. No director, during the term of his office, shall be a party to a contract for profit with the association differing in any way from the business relations accorded regular members or holders of common stock of the association, or to any other kind of contract differing from terms generally current in that district. When a vacancy on the board of directors occurs, other than by expiration of term, the remaining members of the board, by a majority vote, shall fill the vacancy, unless the bylaws provide for an election of directors by district. In such a case the board of directors shall immediately call a special meeting of the members or stockholders in that district to fill the vacancy. [1969 c 64 § 1; 1931 c 16 § 5; 1929 c 69 § 1; 1921 c 115 § 11; RRS § 2888. Formerly RCW 24.32-.110 through 24.32.140.]

24.32.150 Officers. The directors shall elect a president and one or more vice presidents, who need not be directors: *Provided*, That if said president and vice presidents are not members of the board of directors, the directors shall elect from their number a chairman of the board of directors and one or more vice chairmen. They shall also elect a secretary and treasurer, who need not be directors, and they may combine the two latter offices and designate the combined office as secretary-treasurer. The treasurer may be a bank or any depository, and as such shall not be considered as an officer but as a function of the board of directors. In such case the secretary shall perform the usual accounting duties of the treasurer, excepting that the funds shall be deposited only as authorized by the board of directors. [1969 c 64 § 2; 1921 c 115 § 12; RRS § 2889.]

24.32.160 Liability of members—Stock, issue, redemption, transfer, retirement—Voting rights. When a member of an association established without capital stock has paid his membership fee in full, he shall receive a certificate of membership. No association shall issue stock to a member until it has been fully paid for. Except for debts lawfully contracted between him and the association, no member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory notes given in payment thereof. No stockholder of a cooperative association shall own more than one-tenth of the issued common stock of the association; and an association in its bylaws may limit the amount of common stock which any one member may own to any amount less than one-tenth of the issued common stock. Any association organized with stock under this chapter may issue preferred stock, with or without the right to vote. Unless the articles otherwise provide, no member or stockholder shall be entitled to more than one vote. Such stock may be redeemable or retireable by the association on such terms and conditions as may be provided for by the articles of incorporation and printed on the face of the certificate. The bylaws shall prohibit the transfer of the common stock of the association to persons not engaged in the production of agricultural products, and the bylaws or articles may prohibit the transfer of common stock to persons not active members of such association, and such restrictions must be printed upon every certificate of stock subject thereto. The bylaws and the marketing agreement, of the association, may provide for the retiring of the common or preferred stock of the association. Any shares of common or preferred stock redeemed, but not retired, may, from time to time, by order of the board of directors, without the vote of the members of the association, be reissued. [1943 c 99 § 2; 1931 c 16 § 6; 1921 c 115 § 13; Rem. Supp. 1943 § 2890. Formerly RCW 24.32.160 through 24.32.190.]

24.32.200 Charges against officers. Any member may bring charges against an officer or director by filing them in writing with the secretary of the association, together with a petition signed by ten percent of the

members, requesting the removal of the officer or director in question. The removal shall be voted upon at the next regular or special meeting of the association and, by a vote of a majority of the members, the association may remove the officer or director and fill the vacancy. The director or officer against whom such charges have been brought shall be informed in writing of the charges previous to the meeting and shall have an opportunity at the meeting to be heard in person or by counsel and to present witnesses; and the person or persons bringing the charges against him shall have the same opportunity. In case the bylaws provide for election of directors by districts with primary elections in each district, then the petition for removal of a director must be signed by twenty percent of the members residing in the district from which he was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director. By a vote of the majority of the members of that district, the director in question shall be removed from office. [1921 c 115 § 14; RRS § 2891.]

24.32.210 Marketing contracts. The association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, all or any specified part of their agricultural products or specified commodities exclusively to or through the association or any facilities to be created by the association. Any party to such a contract shall have the right to terminate it at the end of the tenth or any subsequent year after its effective date by giving the other parties to the contract notice of termination in the manner and at the time specified by the contract, but if such contract does not provide for such notice then by giving the other parties not less than sixty days advance notice of such termination. The contract may provide that the association may sell or resell the products of its members, with or without taking title thereto; and pay over on a proportional basis or otherwise to its members the resale price, after deducting all necessary selling, overhead and other costs and expenses, including interest on preferred stock, not exceeding eight percent per annum, and reserves for retiring the stock, if any; and other proper reserves; and interest not exceeding eight percent per annum on common stock: *Provided*, That the form of such contract shall be approved by the director of agriculture, who may require that such contract set the maximum amount of any such reserves to be deducted from the sale price of the products of the members of such association: *Provided, further*, That in contracts involving the marketing of an annual crop, the director of agriculture may require that said contract shall contain a date upon which settlement will be made between the association and each of its members for the crop or product marketed by said association. The bylaws and the marketing contract may fix as liquidated damages specific sums to be paid by the member or stockholder to the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of products; and may further provide that the member will pay all costs, premiums for bonds,

expenses and fees in case any action is legally maintained under the contract by the association; and any such provisions shall be valid and enforceable in the courts of this state. In the event of any such breach or threatened breach of such marketing contract by a member, the association shall be entitled to an injunction to prevent the further breach of the contract, and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing a sufficient bond, the association shall be entitled to a temporary restraining order and after notice and hearing, to a temporary injunction against the member. [1959 c 132 § 4; 1931 c 16 § 7; 1927 c 138 § 1; 1921 c 115 § 15; RRS § 2892. Formerly RCW 24.32-.210 through 24.32.230.]

24.32.240 Payment in stock. Whenever an association organized hereunder with preferred capital stock shall purchase the stock or any property or any interest in any property of any person, firm, or corporation, or association, it may discharge the obligations so incurred, wholly or in part, by exchanging for the acquired interest, shares of its preferred stock to an amount which at par value would equal a fair market value of the stock or interest so purchased, as determined by the board of directors. In that case the transfer to the association of the stock or interest purchased shall be equivalent to payment in cash for the shares of stock issued. [1921 c 115 § 16; RRS § 2893.]

24.32.250 Annual audit. Each association formed under this chapter shall cause an annual audit to be made of its books by a certified public accountant or by a public accountant not continuously employed by such association. Copies of the report of such auditor shall be available to the members of said association and to the director of agriculture. In the event that one-tenth or more of the members of an association organized under this chapter made written demand upon the *director of finance, budget and business for an audit by his department, said director is authorized, empowered and directed to cause an examination and audit to be made of the affairs and books of such association and in such event a charge of not more than ten dollars per day and expenses for each examiner of said department shall be made to the association to pay the actual expense of making such examination and audit. [1941 c 195 § 3; 1927 c 285 § 1; 1921 c 115 § 17; Rem. Supp. 1941 § 2894.]

**Reviser's note:* The "director of finance, budget and business" referred to herein was director of a department abolished and the powers and duties thereof transferred through a chain of statutes as follows: 1941 c 196 and 1947 c 114 whereby certain powers were transferred to the state auditor and others to the director of budget. Powers of the director of budget were transferred to the director of program planning and fiscal management, see RCW 43.41.050. See also note following RCW 24.32.330.

24.32.260 Violations and insolvency. If the director of agriculture shall find that any association is operating in violation of law or is insolvent, and after ten days notice has failed or refused to comply with the law, he

may by proper proceeding in the superior court of the county where the principal place of business of said association is located, cause a receiver for such association to be appointed, and the affairs of such association immediately liquidated under the direction of said superior court. [1921 c 115 § 18; RRS § 2895.]

24.32.270 Membership of association in another corporation. An association may organize, form, operate, own, control, have an interest in, own stock, of, or be a member of any other corporation or corporations, with or without capital stock, and engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing, or selling of the agricultural products handled by the association, or the byproducts thereof. If such corporations are warehousing corporations, they may issue legal warehouse receipts to the association or to any other person, and such legal warehouse receipts shall be considered as adequate collateral to the extent of the customary percentage of the current value of the commodity represented thereby. In case such warehouse is licensed or licensed and bonded under the laws of this state or the United States, its warehouse receipt shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association. [1921 c 115 § 19; RRS § 2896.]

Warehouse receipts: Article 62A.7 RCW.

24.32.280 Contracts with other associations. Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements and contracts and arrangements with any other cooperative corporation, association or associations, formed in this or in any other state, for the cooperative and more economical carrying on of its business, or any part or parts thereof. Any two or more associations may, by agreement between them, unite in employing and using, or may separately employ and use the same methods, means and agencies for carrying on and conducting their respective businesses. [1941 c 195 § 4; 1921 c 115 § 20; Rem. Supp. 1941 § 2897.]

24.32.290 Associations organized under other statutes—Admission of associations organized under prior laws. Any corporation or association organized under other statutes, may by a two-thirds majority vote of its stockholders or members voting upon the question after notice of the proposed question shall have been given to all members entitled to vote thereon, in the manner provided by the bylaws of such corporation or association, be brought under the provisions of this chapter by limiting its membership and adopting the other restrictions as provided herein: *Provided*, That if the total vote upon the proposed question shall be less than twenty-five percent of the total membership of the association, such question shall fail of adoption. It shall make out in duplicate a statement signed and sworn to by a majority of its directors, to the effect that the corporation or association has, by a two-thirds majority vote of its stockholders or members voting on the question, decided

to accept the benefits and be bound by the provisions of this chapter. Amendments to articles of incorporation shall be filed as required in RCW 24.32.040 and 24.32-.070, except that they shall be signed by a majority of the members of the board of directors. The filing fee shall be the same as for filing an amendment to articles of incorporation: *Provided*, That any such corporation or association organized prior to the approval of this chapter shall be admitted to the benefits hereof, subject to all of the requirements of this chapter except that the marketing contract between such association and its members need not be approved by the director of agriculture. [1959 c 132 § 5; 1931 c 16 § 8; 1921 c 115 § 21; RRS § 2898.]

Application of this section to certain transactions: RCW 24.32.310.

24.32.300 Voluntary dissolution. The members of any association may by two-thirds vote of all such members, at any regular meeting or at a meeting regularly called for that purpose, vote to dissolve said association, and thereupon such proceedings shall be had for the dissolution of said association as is provided by law for the dissolution and disincorporation of corporations organized under the general law. [1921 c 115 § 22; RRS § 2899.]

24.32.310 General corporation laws applicable, exceptions. The provisions of the general corporation laws of this state, and all powers and rights thereunder, shall apply to the associations organized hereunder, except where such provisions are in conflict with or inconsistent with the express provisions of this chapter. However, (1) the voting provisions of RCW 24.32.080 shall apply with respect to the increase or decrease of shares, the sale, lease or exchange of all or substantially all assets and the merger or consolidation of corporations organized under this chapter, (2) the value of shares of corporations organized under this chapter shall not be worth more and shall not be appraised at more than par, and (3) the voting provisions of RCW 24.32.290 shall apply to the merger or consolidation of any association or corporation organized under other statutes into a resultant corporation organized under this chapter. [1959 c 132 § 6; 1921 c 115 § 23; RRS § 2900.]

24.32.320 Limitations on benefits of members—
Penalty. Other than the usual salary or director's fees paid to any officer, director or employee of any association organized, incorporated or reincorporated and transacting business under this chapter, and other than a reasonable fee paid by such association to such officer, director or employee for services rendered to such association, no officer, director or employee shall be a beneficiary of or receive, directly or indirectly, any fee, commission, or other consideration for or in connection with any transaction or business of such association: *Provided, however*, That nothing in this chapter contained shall be construed to prohibit a director, officer or employee who may also be a member of such association from receiving all the ordinary and usual benefits which other members receive. Any officer, director or employee

of any such association who violates any of the provisions of this section shall be guilty of a felony. [1921 c 115 § 23-a; RRS § 2901.]

24.32.330 False statements and entries—
Penalty. Any person who shall knowingly subscribe to, or make any false statement or entry in the books of any association or who shall knowingly make any false statement in any report required to be filed with the director of agriculture, or who shall knowingly with intent to deceive, misrepresent the affairs of the association to any person authorized and directed by the *department of taxation and examination to examine such associations, shall be guilty of a felony. [1921 c 115 § 24; RRS § 2902.]

***Reviser's note:** The "department of taxation and examination" referred to herein was abolished by 1925 c 18 § 11 and powers and duties of chapter 115, Laws of 1921 (chapter 24.32 RCW) were transferred to a succeeding department. Subsequently the powers and duties devolved through a chain of statutes as follows: 1935 c 176 § 19, 1941 c 196 § 7 and 1947 c 114 §§ 3 and 4. See also note following RCW 24.32.250.

24.32.340 Removal or destruction of papers—
Penalty. Every officer, director, employee or agent, of any association, who for the purpose of concealing any fact or suppressing any evidence against himself or against any person, shall abstract, remove, mutilate, destroy, or secrete any paper, book, or record of any association, or of the department of agriculture, shall be guilty of a felony. [1921 c 115 § 25; RRS § 2903.]

24.32.350 Action for unpaid stock subscription. The director of agriculture may maintain an action in his own name for the use of any association upon any unpaid contract of subscription to the capital stock of such association, or upon any promissory note given to such association in payment thereof, or to cancel any stock issued by it in violation of law. [1921 c 115 § 26; RRS § 2904.]

24.32.355 Duties of attorney general. It shall be the duty of the attorney general to appear and act for the director of agriculture in all actions or proceedings involving any questions under this chapter. [1921 c 115 § 27; RRS § 2905.]

24.32.360 Appeals from action of director of agriculture. Every order, decision or other official act of the director of agriculture shall be subject to review, and any party aggrieved by such order, decision or act of the director of agriculture may appeal therefrom to the superior court of the county of Thurston by serving upon the director of agriculture a notice of such appeal, specifying the order, decision of act appealed from, and filing the same with the clerk of the superior court of the county of Thurston within sixty days after the date of such order, decision or official act. Whereupon the director of agriculture shall, within ten days after filing of such notice of appeal, make and certify a transcript of all the records and papers on file in his office affecting or relating to the order, decision or act appealed from, and upon the payment of the fee therefor by the appellant, the director of agriculture shall file the same in the office

of the clerk of said superior court. Upon the hearing of such appeal the burden of proof shall be upon the appellant, and the court shall receive and consider any pertinent evidence, whether oral or documentary, concerning the action of the director of agriculture from which appeal is taken. Any party to such appeal to the superior court who is aggrieved by the judgment of said court rendered upon such appeal may prosecute an appeal to the supreme court or the court of appeals of the state of Washington. The general laws relating to bills of exception, statements of fact and appeals to the supreme court or the court of appeals, shall apply to all appeals taken to the supreme court or the court of appeals under this chapter: *Provided*, That no superseades of the judgment of the superior court shall be allowed, except at the discretion of said superior court. If superseades is allowed, it shall be upon such bond and with such conditions as the superior court may require by its order. [1971 c 81 § 68; 1921 c 115 § 28; RRS § 2906. Formerly RCW 24.32.360 through 24.32.390.]

Rules of court: Cf. RAP 8.1, 9.1, 18.22.

24.32.400 Annual license fee. Each association organized hereunder shall pay an annual license fee of fifteen dollars, but shall be exempt from all franchise or license taxes. [1921 c 115 § 29; RRS § 2907.]

24.32.410 Fees for filing articles of incorporation. For filing articles of incorporation an association organized hereunder shall pay twenty-five dollars, and for filing an amendment to the articles ten dollars. [1921 c 115 § 30; RRS § 2908.]

24.32.900 Severability—1921 c 115. If any section of this chapter shall be declared unconstitutional for any reason, the remainder of the chapter shall not be affected thereby. [1921 c 115 § 31; RRS § 2909.]

Chapter 24.34 AGRICULTURAL PROCESSING AND MARKETING ASSOCIATIONS

Sections

24.34.010 Who may organize—Purposes—Limitations.
24.34.020 Monopoly or restraint of trade—Complaint—
Procedure.

Agricultural marketing: Chapters 15.65, 15.66 RCW.

24.34.010 Who may organize—Purposes—Limitations. Persons engaged in the production of agricultural products as farmers, planters, ranchmen, dairymen, nut growers or fruit growers may act together in associations, corporate or otherwise, with or without capital stock, in collectively processing, preparing for market, handling, and marketing in intrastate commerce, such products of persons so engaged. Such associations may have marketing agencies in common; and such associations and their members may make the necessary contracts and agreements to effect such purposes: *Provided*, That such associations are operated for the

mutual benefit of the members thereof, as such producers, and conform to one or both of the following requirements:

First. That no member of the association is allowed more than one vote because of the amount of stock or membership capital he may own therein, or,

Second. That the association does not pay dividends on stock or membership capital in excess of eight percent per annum.

And in any case to the following:

Third. That the association shall not deal in the products of nonmembers to an amount greater in value than such as are handled by it for members. [1967 c 187 § 1.]

24.34.020 Monopoly or restraint of trade—Complaint—Procedure. If the attorney general shall have reason to believe that any such association as provided for in RCW 24.34.010 monopolizes or restrains trade to such an extent that the price of any agricultural product is unduly enhanced by reason thereof, he shall serve upon such association a complaint stating his charge in that respect, to which complaint shall be attached, or contained therein, a notice of hearing, specifying a day and place not less than thirty days after the service thereof, requiring the association to show cause why an order should not be made directing it to cease and desist from monopolization or restraint of trade.

Such hearing, and any appeal which may be made from such hearing, shall be conducted and held subject to and in conformance with the provisions for contested cases in chapter 34.04 RCW (Administrative Procedure Act), as now enacted or hereafter amended. [1967 c 187 § 2.]

Chapter 24.36 FISH MARKETING ACT

Sections

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24.36.010 Short title. This chapter may be cited as "The Fish Marketing Act". [1959 c 312 § 1.]

24.36.020 Declaration of purpose. The purpose of this chapter is to promote, foster, and encourage the intelligent and orderly marketing of fish and fishery products through cooperation; to eliminate speculation and waste; to make the distribution of fish and fishery products between producer and consumer as direct as can be efficiently done; and to stabilize the marketing of fish and fishery products. [1959 c 312 § 2.]

24.36.030 Definitions. As used in this chapter:

(1) "Fishery products" includes fish, crustaceans, mollusks, and marine products for human consumption.

(2) "Member" includes members of associations without capital stock and holders of common stock in associations organized with shares of stock.

(3) "Association" means any corporation organized under this chapter. [1959 c 312 § 3.]

24.36.040 Associations deemed nonprofit. Associations shall be deemed "nonprofit", inasmuch as they are not organized to make profit for themselves, as such, or for their members, as such, but only for their members as producers of fishery products. [1959 c 312 § 4.]

24.36.050 General laws relating to corporations for profit applicable. The provisions of *Title 23 RCW and all powers and rights thereunder, apply to associations,

except where such provisions are in conflict with or inconsistent with the express provisions of this chapter. [1959 c 312 § 5.]

*Reviser's note: See note following Title 23 RCW digest.

24.36.060 Securities act inapplicable. No association is subject in any manner to the terms of *chapter 21.04 RCW and all associations may issue their membership certificates or stock or other securities as provided in this division without the necessity of any permit from the director of licenses. [1959 c 312 § 6.]

*Reviser's note: "chapter 21.04 RCW" was repealed by section 68, chapter 282, Laws of 1959.

24.36.070 Associations deemed not a conspiracy, in restraint of trade, etc.—Contracts not illegal. An association shall be deemed not to be a conspiracy, nor a combination in restraint of trade nor an illegal monopoly; nor an attempt to lessen competition or to fix prices arbitrarily or to create a combination or pool in violation of any law of the state; and the marketing contracts and agreements between the association and its members and any agreements authorized in this chapter shall be considered not to be illegal nor in restraint of trade nor contrary to the provisions of any statute enacted against pooling or combinations. [1959 c 312 § 7.]

24.36.080 Conflicting laws not applicable—Exemptions apply. Any provisions of law which are in conflict with this chapter shall not be construed as applying to associations. Any exemptions under any laws applying to fishery products in the possession or under the control of the individual producer shall apply similarly and completely to such fishery products delivered by its members, in the possession or under the control of the association. [1959 c 312 § 8.]

24.36.090 Merger, consolidation of associations authorized—Procedure. Any two or more associations may be merged into one such constituent association or consolidated into a new association. Such merger or consolidation shall be made in the manner prescribed by *chapter 23.40 RCW for domestic corporations. [1959 c 312 § 9.]

*Reviser's note: "chapter 23.40 RCW" was recodified as RCW 23.01.460 through 23.01.510 and was later repealed by the Washington Business Corporation Act, chapter 53, Laws of 1965 (Title 23A RCW).

24.36.100 Stock associations—Statement in articles. If the association is organized with shares of stock, the articles shall state the number of shares which may be issued and if the shares are to have a par value, the par value of each share, and the aggregate par value of all shares; and if the shares are to be without par value it shall be so stated. [1959 c 312 § 10.]

24.36.110 Stock associations—Classified shares—Statement in articles. If the shares are to be classified, the articles shall contain a description of the classes of shares and a statement of the number of shares of each kind or class and the nature and extent of

the preferences, rights, privileges and restrictions granted to or imposed upon the holders of the respective classes of stock. [1959 c 312 § 11.]

24.36.120 Nonstock associations—Statement in articles. If the association is organized without shares of stock, the articles shall state whether the voting power and the property rights and interest of each member are equal or unequal; and if unequal the general rule or rules applicable to all members by which the voting power and the property rights and interests, respectively, of each member may be and are determined and fixed; and shall also provide for the admission of new members who shall be entitled to vote and to share in the property of the association with the old members, in accordance with such general rule or rules. [1959 c 312 § 12.]

24.36.130 Bylaws of association. Each association shall within thirty days after its incorporation, adopt for its government and management, a code of bylaws, not inconsistent with this chapter. A majority vote of the members or shares of stock issued and outstanding and entitled to vote, or the written assent of a majority of the members or of stockholders representing a majority of all the shares of stock issued and outstanding and entitled to vote, is necessary to adopt such bylaws and is effectual to repeal or amend any bylaws or to adopt additional bylaws. The power to repeal and amend the bylaws, and adopt new bylaws, may, by a similar vote, or similar written assent, be delegated to the board of directors, which authority may, by a similar vote, or similar written assent, be revoked. [1959 c 312 § 13.]

24.36.140 Bylaws of association—Transfer of stock, membership certificates limited. The bylaws shall prohibit the transfer of the common stock or membership certificates of the associations to persons not engaged in the production of the products handled by the association. [1959 c 312 § 14.]

24.36.150 Bylaws of association—Quorum, voting, directors, penalties. The bylaws may provide:

- (1) The number of members constituting a quorum.
- (2) The right of members to vote by proxy or by mail or both, and the conditions, manner, form and effects of such votes; the right of members to cumulate their votes and the prohibition, if desired, of cumulative voting.
- (3) The number of directors constituting a quorum.
- (4) The qualifications, compensation and duties and term of office of directors and officers and the time of their election.
- (5) Penalties for violations of the bylaws. [1959 c 312 § 15.]

24.36.160 Bylaws of association—Fees, charges, marketing contract, dividends. The bylaws may provide:

- (1) The amount of entrance, organization and membership fees, if any; the manner and method of collection of the same; and the purposes for which they may be used.
- (2) The amount which each member shall be required to pay annually, or from time to time, if at all, to carry

on the business of the association; the charge, if any, to be paid by each member for services rendered by the association to him and the time of payment and the manner of collection; and the marketing contract between the association and its members which every member may be required to sign.

(3) The amount of any dividends which may be declared on the stock or membership capital, which dividends shall not exceed eight percent per annum and which dividends shall be in the nature of interest and shall not affect the nonprofit character of any association organized hereunder. [1959 c 312 § 16.]

24.36.170 Bylaws of association—Membership. The bylaws may provide:

- (1) The number and qualification of members of the association and the conditions precedent to membership or ownership of common stock.
- (2) The method, time and manner of permitting members to withdraw or the holders of common stock to transfer their stock.
- (3) The manner of assignment and transfer of the interest of members and of the shares of common stock.
- (4) The conditions upon which and time when membership of any member shall cease.
- (5) For the automatic suspension of the rights of a member when he ceases to be eligible to membership in the association; and the mode, manner and effect of the expulsion of a member.

(6) The manner of determining the value of a member's interest and provision for its purchase by the association upon the death or withdrawal of a member or upon the expulsion of a member or forfeiture of his membership, or at the option of the association, the purchase at a price fixed by conclusive appraisal by the board of directors; and the conditions and terms for the repurchase by the corporation from its stockholders of their stock upon their disqualification as stockholders. [1959 c 312 § 17.]

24.36.180 Bylaws of association—Meetings. The bylaws may provide for the time, place, and manner of calling and conducting meetings of the association. [1959 c 312 § 18.]

24.36.190 Bylaws of association—Direct election of directors from districts of territory. The bylaws may provide that the territory in which the association has members shall be divided into districts and that directors shall be elected from the several districts. In such case, the bylaws shall specify the number of directors to be elected by each district, the manner and method of reapportioning the directors and of redistricting the territory covered by the association. [1959 c 312 § 19.]

24.36.200 Bylaws of association—Election of directors by representatives or advisers from districts of territory. The bylaws may provide that the territory in which the association has members shall be divided into districts, and that the directors shall be elected by representatives or advisers, who themselves have been

elected by the members from the several territorial districts. In such case, the bylaws shall specify the number of representatives or advisers to be elected by each district, the manner and method of reapportioning the representatives or advisers and of redistricting the territory covered by the association. [1959 c 312 § 20.]

24.36.210 Bylaws of association—Primary elections to nominate directors. The bylaws may provide that primary elections shall be held to nominate directors. Where the bylaws provide that the territory in which the association has members shall be divided into districts, the bylaws may also provide that the results of the primary elections in the various districts shall be final and shall be ratified at the annual meeting of the association. [1959 c 312 § 21.]

24.36.220 Bylaws of association—Nomination of directors by public officials or other directors—Limitation. The bylaws may provide that one or more directors may be nominated by any public official or commission or by the other directors selected by the members. Such directors shall represent primarily the interest of the general public in such associations. The directors so nominated need not be members of the association, but shall have the same powers and rights as other directors. Such directors shall not number more than one-fifth of the entire number of directors. [1959 c 312 § 22.]

24.36.230 Bylaws of association—Terms of directors—Staggering. The bylaws may provide that directors shall be elected for terms of from one to five years: *Provided*, That at each annual election the same fraction of the total number of directors shall be elected as one year bears to the number of years of the term of office. [1959 c 312 § 23.]

24.36.240 Bylaws of association—Executive committee. The bylaws may provide for an executive committee and may allot to such committee all the functions and powers of the board of directors, subject to the general direction and control of the board. [1959 c 312 § 24.]

24.36.250 Qualifications of members, stockholders. (1) Under the terms and conditions prescribed in the bylaws, an association may admit as members, or issue common stock to, only such persons as are engaged in the production of fishery products to be handled by or through the association, including the lessees and tenants of boats and equipment used for the production of such fishery products and any lessors and landlords who receive as rent all or part of the fish produced by such leased equipment.

(2) If a member of a nonstock association is other than a natural person, such member may be represented by any individual duly authorized in writing.

(3) One association may become a member or stockholder of any other association. [1959 c 312 § 25.]

24.36.260 Certificate of membership in nonstock associations. When a member of an association established without shares of stock has paid his membership fee in full, he shall receive a certificate of membership. [1959 c 312 § 26.]

24.36.270 Liability of member for association's debts. No member shall be liable for the debts of the association to an amount exceeding the sum remaining unpaid on his membership fee or his subscription to the capital stock, including any unpaid balance on any promissory note given in payment thereof. [1959 c 312 § 27.]

24.36.280 Place of membership meetings. Meetings of members shall be held at the place as provided in the bylaws; and if no provision is made, in the city where the principal place of business is located at a place designated by the board of directors. [1959 c 312 § 28.]

24.36.290 Appraisal of expelled member's property—Payment. In case of the expulsion of a member, and where the bylaws do not provide any procedure or penalty, the board of directors shall equitably and conclusively appraise his property interest in the association and shall fix the amount thereof in money, which shall be paid to him within one year after such expulsion. [1959 c 312 § 29.]

24.36.300 Powers of association—General scope of activities. An association may:

Engage in any activity in connection with the marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or utilization of any fishery products produced or delivered to it by its members; or the manufacturing or marketing of the byproducts thereof; or any activity in connection with the purchase, hiring, or use by its members of supplies, machinery, or equipment, or in the financing of any such activities. [1959 c 312 § 30.]

24.36.310 Powers of association—Incurring indebtedness—Advances to members. An association may borrow without limitation as to amount of corporate indebtedness or liability and may make advances to members. [1959 c 312 § 31.]

24.36.320 Association as agent for member. An association may act as the agent or representative of any member or members in any of the two next preceding sections. [1959 c 312 § 32.]

24.36.330 Reserves—Investments. An association may establish reserves and invest the funds thereof in bonds or in such other property as may be provided in the bylaws. [1959 c 312 § 33.]

24.36.340 Powers relating to capital stock or bonds of other corporations or associations. An association may purchase or otherwise acquire, hold, own, and exercise all rights of ownership in, sell, transfer, pledge, or guarantee the payment of dividends or interest on, or the retirement or redemption of, shares of the capital stock

or bonds of any corporation or association engaged in any related activity or in the warehousing or handling or marketing or packing or manufacturing or processing or preparing for market of any of the fishery products handled by the association. [1959 c 312 § 34.]

24.36.350 Powers relating to real or personal property. An association may buy, hold and exercise all privileges or ownership, over such real or personal property as may be necessary or convenient for the conduct and operation of any of the business of the association, or incidental thereto. [1959 c 312 § 35.]

24.36.360 Levy of assessments. An association may levy assessments in the manner and in the amount provided in its bylaws. [1959 c 312 § 36.]

24.36.370 General powers, rights, privileges of association. An association may do each and every thing necessary, suitable or proper for the accomplishment of any one of the purposes or the attainment of any one or more of the objects enumerated in this chapter; or conducive to or expedient for the interest or benefit of the association; and contract accordingly; and in addition exercise and possess all powers, rights and privileges necessary or incidental to the purposes for which the association is organized or to the activities in which it is engaged; and, in addition, any other rights, powers and privileges granted by the laws of this state to ordinary corporations, except such as are inconsistent with the express provisions of this chapter; and do any such thing anywhere. [1959 c 312 § 37.]

24.36.380 Use of association's facilities—Disposition of proceeds. An association may use or employ any of its facilities for any purpose: *Provided*, That the proceeds arising from such use and employment go to reduce the cost of operation for its members; but the fishery products of nonmembers shall not be dealt in to an amount greater in value than such as are handled by it for its members. [1959 c 312 § 38.]

24.36.390 Power of association to form, control, own stock in or be member of another corporation or association—Warehouse receipts. An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any other corporation or corporations, with or without capital stock and engaged in preserving, drying, processing, canning, packing, storing, handling, shipping, utilizing, manufacturing, marketing, or selling of the fishery products handled by the association, or the byproducts thereof.

If such corporations are warehousing corporations, they may issue legal warehouse receipts to the association against the commodities delivered by it, or to any other person and such legal warehouse receipts shall be considered as adequate collateral to the extent of the usual and current value of the commodity represented thereby. In case such warehouse is licensed or licensed and bonded under the laws of this state or the United States, its warehouse receipt delivered to the association on commodities of the association or its members, or

delivered by the association or its members, shall not be challenged or discriminated against because of ownership or control, wholly or in part, by the association. [1959 c 312 § 39.]

24.36.400 Contracts and agreements with other corporations or associations—Joint operations. Any association may, upon resolution adopted by its board of directors, enter into all necessary and proper contracts and agreements and make all necessary and proper stipulations, agreements and contracts and arrangements with any other cooperative or other corporation, association, or associations, formed in this or in any other state, for the cooperative and more economical carrying on of its business or any part or parts thereof. Any two or more associations may, by agreement between them, unite in employing and using or may separately employ and use the same personnel, methods, means, and agencies for carrying on and conducting their respective business. [1959 c 312 § 40.]

24.36.410 Marketing contracts with members. An association and its members may make and execute marketing contracts, requiring the members to sell, for any period of time, not over fifteen years, all or any specified part of their fishery products or specified commodities exclusively to or through the association or any facilities to be created by the association. [1959 c 312 § 41.]

24.36.420 When title passes on sale by member to association. If the members contract a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly, except for recorded liens, to the association upon delivery or at any other time expressly and definitely specified in the contract. [1959 c 312 § 42.]

24.36.430 Association may sell products without taking title—Powers and duties. The contract may provide that the association may sell or resell the fishery products delivered by its members, with or without taking title thereto; and pay over to its members the resale price, after deducting all necessary selling, overhead, and other costs and expenses, including interest on preferred stock, not exceeding eight percent per annum, and reserves for retiring the stock, if any; and other proper reserves; and interest not exceeding eight percent per annum upon common stock. [1959 c 312 § 43.]

24.36.440 Liability of member for breach of marketing contract. The marketing contract may fix, as liquidated damages, specific sums to be paid by the member to the association upon the breach by him of any provision of the marketing contract regarding the sale or delivery or withholding of fishery products; and may further provide that the member will pay all costs, premiums for bonds, expenses and fees, in case any action is brought upon the contract by the association; and any such provisions shall be valid and enforceable in the

courts of this state; and such clauses providing for liquidated damages shall be enforceable as such and shall not be regarded as penalties. [1959 c 312 § 44.]

24.36.450 Injunctions, specific performance if breach or threatened breach by member. In the event of any such breach or threatened breach of such marketing contract by a member the association shall be entitled to an injunction to prevent the further breach of the contract and to a decree of specific performance thereof. Pending the adjudication of such an action and upon filing a verified complaint showing the breach or threatened breach, and upon filing sufficient bond, the association shall be entitled to a temporary restraining order and preliminary injunction against the member. [1959 c 312 § 45.]

24.36.460 Presumption that landlord or lessor can control delivery—Remedies for nondelivery or breach. In any action upon such marketing agreements, it shall be conclusively presumed that a landlord or lessor is able to control the delivery of fishery products produced by his equipment by tenants, or others, whose tenancy or possession or work on such equipment or the terms of whose tenancy or possession or labor thereon were created or changed after execution by the landlord or lessor, of such a marketing agreement; and in such actions, the foregoing remedies for nondelivery or breach shall lie and be enforceable against such landlord or lessor. [1959 c 312 § 46.]

24.36.470 Enforcement by association to secure delivery by member. A contract entered into by a member of an association, providing for the delivery to such association of products produced or acquired by the member, may be specifically enforced by the association to secure the delivery to it of such fishery products, any provisions of law to the contrary notwithstanding. [1959 c 312 § 47.]

Chapter 24.40
TAX REFORM ACT OF 1969, STATE
IMPLEMENTATION—NOT FOR PROFIT
CORPORATIONS

Sections	
24.40.010	Application.
24.40.020	Articles of incorporation deemed to contain prohibiting provisions.
24.40.030	Articles of incorporation deemed to contain provisions for distribution.
24.40.040	Rights, powers, of courts, attorney general, not impaired.
24.40.050	Construction of references to federal code.
24.40.060	Present articles of incorporation may be amended—Application to new corporation.
24.40.070	Severability—1971 c 59.
24.40.080	Tax reform act of 1969, state implementation—Charitable trusts.

24.40.010 Application. This chapter shall apply to every not for profit corporation to which Title 24 RCW applies, and which is a "private foundation" as defined in section 509 of the Internal Revenue Code of 1954, and which has been or shall be incorporated under the laws of the state of Washington after December 31,

1969. As to any such corporation so incorporated before January 1, 1970, this chapter shall apply only for its federal taxable years beginning after December 31, 1971. [1971 c 59 § 2.]

24.40.020 Articles of incorporation deemed to contain prohibiting provisions. The articles of incorporation of every corporation to which this chapter applies shall be deemed to contain provisions prohibiting the corporation from:

(1) Engaging in any act of "self-dealing" (as defined in section 4941(d) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4941(a) of the Internal Revenue Code of 1954;

(2) Retaining any "excess business holdings" (as defined in section 4943(c) of the Internal Revenue Code of 1954), which would give rise to any liability for the tax imposed by section 4943(a) of the Internal Revenue Code of 1954;

(3) Making any investment which would jeopardize the carrying out of any of its exempt purposes, within the meaning of section 4944 of the Internal Revenue Code of 1954, so as to give rise to any liability for the tax imposed by section 4944(a) of the Internal Revenue Code of 1954; and

(4) Making any "taxable expenditures" (as defined in section 4945(d) of the Internal Revenue Code of 1954) which would give rise to any liability for the tax imposed by section 4945(a) of the Internal Revenue Code of 1954. [1971 c 59 § 3.]

24.40.030 Articles of incorporation deemed to contain provisions for distribution. The articles of incorporation of every corporation to which this chapter applies shall be deemed to contain a provision requiring such corporation to distribute, for the purposes specified in its articles of incorporation, for each taxable year, amounts at least sufficient to avoid liability for the tax imposed by section 4942(a) of the Internal Revenue Code of 1954. [1971 c 59 § 4.]

24.40.040 Rights, powers, of courts, attorney general, not impaired. Nothing in this chapter shall impair the rights and powers of the courts or the attorney general of this state with respect to any corporation. [1971 c 59 § 5.]

24.40.050 Construction of references to federal code. All references to sections of the Internal Revenue Code of 1954 shall include future amendments to such sections and corresponding provisions of future internal revenue laws. [1971 c 59 § 6.]

24.40.060 Present articles of incorporation may be amended—Application to new corporation. Nothing in this chapter shall limit the power of any corporation not for profit now or hereafter incorporated under the laws of the state of Washington

(1) to at any time amend its articles of incorporation or other instrument governing such corporation by any amendment process open to such corporation under the

laws of the state of Washington to provide that some or all provisions of RCW 24.40.010 and 24.40.020 shall have no application to such corporation; or

(2) in the case of any such corporation formed after June 10, 1971, to provide in its articles of incorporation that some or all provisions of RCW 24.40.010 and 24.40.020 shall have no application to such corporation. [1971 c 59 § 7.]

24.40.070 Severability—1971 c 59. If any provision of RCW 24.40.010 through 24.40.070 or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of RCW 24.40.010 through 24.40.070 which can be given effect without the invalid provision or application, and to this end the provisions of RCW 24.40.010 through 24.40.070 are declared to be severable. [1971 c 59 § 8.]

24.40.080 Tax reform act of 1969, state implementation—Charitable trusts. See RCW 19.10.200 through 19.10.260.

Chapter 24.44

UNIFORM MANAGEMENT OF INSTITUTIONAL FUNDS ACT

Sections

24.44.010	Definitions.
24.44.020	Appropriation of appreciation.
24.44.030	Investment authority.
24.44.040	Delegation of investment management.
24.44.050	Standard of conduct.
24.44.060	Release of restrictions on use or investments.
24.44.070	Uniformity of application and construction.
24.44.080	Short title.
24.44.090	Section headings.
24.44.900	Severability—1973 c 17.

24.44.010 Definitions. As used in this chapter:

(1) "Institution" means an incorporated or unincorporated organization organized and operated exclusively for educational, religious, charitable, or other eleemosynary purposes or a governmental organization to the extent that it holds funds exclusively for any of these purposes;

(2) "Institutional fund" means a fund held by an institution for its exclusive use, benefit or purposes, but does not include (a) a fund held for an institution by a trustee which is not an institution, or (b) a fund in which a beneficiary which is not an institution has an interest other than possible rights which could arise upon violation or failure of the purposes of the fund;

(3) "Endowment fund" means an institutional fund, or any part thereof, which is not wholly expendable by the institution on a current basis under the terms of the applicable gift instrument;

(4) "Governing board" means the body responsible for the management of an institution or of an institutional fund;

(5) "Historic dollar value" means the fair value in dollars of an endowment fund at the time it first became an endowment fund, plus the fair value in dollars of each subsequent donation to the fund at the time it is made, plus the fair value in dollars of each accumulation made

pursuant to a direction in the applicable gift instrument at the time the accumulation is added to the fund. The determination of historic dollar value made in good faith by the institution is conclusive;

(6) "Gift instrument" means a will, deed, grant, conveyance, agreement, memorandum, writing, or other governing document (including the terms of any institutional solicitations from which an institutional fund resulted) under which property is transferred to or held by an institution as an institutional fund. [1973 c 17 § 1.]

24.44.020 Appropriation of appreciation. The governing board may appropriate for expenditure for the uses and purposes for which an endowment fund is established so much of the net appreciation, realized and unrealized, in the fair value of the assets of an endowment fund over the historic dollar value of the fund as is prudent under the standard established by RCW 24.44.050. This section does not limit the authority of the governing board to expend funds as permitted under other law, the terms of the applicable gift instrument, or the character of an institution. [1973 c 17 § 2.]

24.44.030 Investment authority. In addition to an investment otherwise authorized by law or by the applicable gift instrument, and without restriction to investments a fiduciary is authorized to make, the governing board (subject to any specific limitations set forth in the applicable gift instrument or in applicable law other than law relating to investments a fiduciary is authorized to make) may:

(1) Invest and reinvest an institutional fund in any real or personal property deemed advisable by the governing board, whether or not it produces a current return, including mortgages, stocks and bonds, debentures, and other securities of profit or nonprofit corporations, shares in or obligations of associations, partnerships, or individuals, and obligations of any government or subdivision or instrumentality thereof;

(2) Retain property contributed by a donor to an institutional fund for as long as the governing board deems advisable;

(3) Include all or any part of an institutional fund in any pooled or common fund maintained by the institution; and

(4) Invest all or any part of an institutional fund in any other pooled or common fund available for investment, including shares or interests in regulated investment companies, mutual funds, common trust funds, investment partnerships, real estate investment trusts, or similar organizations in which funds are commingled and investment determinations are made by persons other than the governing board. [1973 c 17 § 3.]

24.44.040 Delegation of investment management. Except as otherwise provided by the applicable gift instrument or by applicable law relating to governmental institutions or funds, the governing board may:

(1) Delegate to its committees, to officers or employees of the institution or the fund, or to agents (including investment counsel) the authority to act in place of the

board in investment and reinvestment of institutional funds;

(2) Contract with independent investment advisors, investment counsel or managers, banks, or trust companies, so to act; and

(3) Authorize the payment of compensation for investment advisory or management services. [1973 c 17 § 4.]

24.44.050 Standard of conduct. In the administration of the powers to appropriate appreciation, to make and retain investments, and to delegate investment management of institutional funds, members of a governing board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision, and in so doing they shall consider long and short term needs of the institution in carrying out its educational, religious, charitable, or other eleemosynary purposes, its present and anticipated financial requirements, expected total return on its investments, price level trends, and general economic conditions. [1973 c 17 § 5.]

24.44.060 Release of restrictions on use or investments. (1) A restriction on the use or investment of an institutional fund imposed by the applicable gift instrument may be released, entirely or in part, by the governing board with the written consent of the donor.

(2) If consent of the donor cannot be obtained by reason of the death, disability or unavailability, or impossibility of identification of the donor, upon application of the governing board, a restriction on the use or investment of an institutional fund imposed by the applicable gift instrument may be released, entirely or in part, by order of the superior court after reasonable notice to the attorney general and an opportunity for him to be heard, and upon a finding that the restriction on the use or investment of the fund is obsolete, inappropriate or impracticable. A release under this subsection may not change an endowment fund to a fund which is not an endowment fund.

(3) A release under this section may not allow a fund to be used for purposes other than the educational, religious, charitable, or other eleemosynary purposes of the institution affected.

(4) The provisions of this section do not limit the application of the doctrine of cy pres. [1973 c 17 § 6.]

24.44.070 Uniformity of application and construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among those states which enact it. [1973 c 17 § 8.]

24.44.080 Short title. This chapter may be cited as the "Uniform Management of Institutional Funds Act". [1973 c 17 § 9.]

24.44.090 Section headings. Section headings as used in this chapter do not constitute any part of the law. [1973 c 17 § 10.]

24.44.900 Severability—1973 c 17. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable. [1973 c 17 § 7.]

TITLE 25

PARTNERSHIPS

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- 25.04 General partnerships.
- 25.08 Limited partnerships.
- 25.12 Limited partnerships existing prior to June 6, 1945.
- 25.98 Construction.

Powers of appointment: Chapter 64.24 RCW.

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Chapter 25.04 GENERAL PARTNERSHIPS

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- 25.04.010 Name of chapter.
- 25.04.020 Definition of terms.
- 25.04.030 Interpretation of knowledge and notice.
- 25.04.040 Rules of construction.
- 25.04.050 Rules for cases not provided for in this chapter.

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- 25.04.350 Power of partner to bind partnership to third persons after dissolution.
- 25.04.360 Effect of dissolution on partner's existing liability.
- 25.04.370 Right to wind up.
- 25.04.380 Rights of partners to application of partnership property.
- 25.04.390 Rights where partnership is dissolved for fraud or misrepresentation.
- 25.04.400 Rules for distribution.
- 25.04.410 Liability of persons continuing the business in certain cases.
- 25.04.420 Rights of retiring or estate of deceased partner when business is continued.
- 25.04.430 Accrual of actions.

Fraudulent conveyances of partnership property: RCW 19.40.080.

PART I PRELIMINARY PROVISIONS

25.04.010 Name of chapter. This chapter may be cited as the uniform partnership act. [1955 c 15 § 25.04.010. Prior: 1945 c 137 § 1; Rem. Supp. 1945 § 9975-40.]

25.04.020 Definition of terms. In this chapter: "Court" includes every court and judge having jurisdiction in the case;

"Business" includes every trade, occupation, or profession;

"Person" includes individuals, partnerships, corporations, and other associations;

"Bankrupt" includes bankrupt under the federal bankruptcy act or insolvent under any state insolvent act;

"Conveyance" includes every assignment, lease, mortgage, or encumbrance;

"Real property" includes land and any interest or estate in land. [1955 c 15 § 25.04.020. Prior: 1945 c 137 § 2; Rem. Supp. 1945 § 9975-41.]

25.04.030 Interpretation of knowledge and notice. (1) A person has knowledge of a fact within the meaning of this chapter not only when he has actual knowledge thereof, but also when he has knowledge of such other facts as in the circumstances shows bad faith.

(2) A person has notice of a fact within the meaning of this chapter when the person who claims the benefit of the notice:

- (a) States the fact to such person, or
- (b) Delivers through the mail, or by other means of communication, a written statement of the fact to such person or to a proper person at his place of business or residence. [1955 c 15 § 25.04.030. Prior: 1945 c 137 § 3; Rem. Supp. 1945 § 9975-42.]

25.04.040 Rules of construction. (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

- (2) The law of estoppel shall apply under this chapter.
- (3) The law of agency shall apply under this chapter.
- (4) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.
- (5) This chapter shall not be construed so as to impair the obligations of any contract existing when the chapter goes into effect, nor to affect any action or proceedings begun or right accrued before this chapter takes effect. [1955 c 15 § 25.04.040. Prior: 1945 c 137 § 4; Rem. Supp. 1945 § 9975-43.]

25.04.050 Rules for cases not provided for in this chapter. In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern. [1955 c 15 § 25.04.050. Prior: 1945 c 137 § 5; Rem. Supp. 1945 § 9975-44.]

PART II NATURE OF A PARTNERSHIP

25.04.060 Partnership defined. (1) A partnership is an association of two or more persons to carry on as co-owners a business for profit.

(2) Any association formed under any other statute of this state, or a statute adopted by any authority, other than the authority of this state, is not a partnership under this chapter, unless such association would have been a partnership in this state prior to the adoption of this chapter.

(3) This chapter shall apply to limited partnerships except insofar as the statutes relating to such partnerships are inconsistent herewith. [1955 c 15 § 25.04.060. Prior: 1945 c 137 § 6; Rem. Supp. 1945 § 9975-45.]

25.04.070 Rules for determining the existence of a partnership. In determining whether a partnership exists, these rules shall apply:

(1) Except as provided by RCW 25.04.160 persons who are not partners as to each other, are not partners as to third persons.

(2) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership does not of itself establish a partnership, whether such co-owners do or do not share any profits made by the use of the property.

(3) The sharing of gross returns does not of itself establish a partnership, whether or not the persons sharing them have a joint or common right or interest in any property from which the returns are derived.

(4) The receipt by a person of a share of the profits of a business is prima facie evidence that he is a partner in the business, but no such inference shall be drawn if such profits were received in payments:

- (a) As a debt by installments or otherwise,
- (b) As wages of an employee or rent to a landlord,
- (c) As an annuity to a surviving spouse or representative of a deceased partner,
- (d) As interest on a loan, though the amount of payment vary with the profits of the business,

(e) As the consideration for the sale of a good will of a business or other property by installments or otherwise. [1973 1st ex.s. c 154 § 24; 1955 c 15 § 25.04.070. Prior: 1945 c 137 § 7; Rem. Supp. 1945 § 9975-46.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

25.04.080 Partnership property. (1) All property originally brought into the partnership stock or subsequently acquired by purchase or otherwise, on account of the partnership, is partnership property.

(2) Unless the contrary intention appears, property acquired with partnership funds is partnership property.

(3) Any estate in real property may be acquired in the partnership name. Title so acquired can be conveyed only in the partnership name.

(4) A conveyance to a partnership in the partnership name, though without words of inheritance, passes the entire estate of the grantor unless a contrary intent appears. [1955 c 15 § 25.04.080. Prior: 1945 c 137 § 8; Rem. Supp. 1945 § 9975-47.]

PART III RELATIONS OF PARTNERS TO PERSONS DEALING WITH THE PARTNERSHIP

25.04.090 Partner agent of partnership as to partnership business. (1) Every partner is an agent of the partnership for the purpose of its business, and the act of every partner, including the execution in the partnership name of any instrument, for apparently carrying on in the usual way the business of the partnership of which he is a member binds the partnership, unless the partner so acting has in fact no authority to act for the partnership in the particular matter, and the person with whom he is dealing has knowledge of the fact that he has no such authority.

(2) An act of a partner which is not apparently for the carrying on of the business of the partnership in the usual way does not bind the partnership unless authorized by the other partners.

(3) Unless authorized by the other partners or unless they have abandoned the business, one or more but less than all partners have no authority to:

- (a) Assign the partnership property in trust for creditors or on the assignee's promise to pay the debts of the partnership,
- (b) Dispose of the good will of the business,

(c) Do any other act which would make it impossible to carry on the ordinary business of a partnership,

(d) Confess a judgment,

(e) Submit a partnership claim or liability to arbitration or reference.

(4) No act of a partner in contravention of a restriction on authority shall bind the partnership to persons having knowledge of the restriction. [1955 c 15 § 25.04.090. Prior: 1945 c 137 § 9; Rem. Supp. 1945 § 9975-48.]

25.04.100 Conveyance of real property of the partnership. (1) Where title to real property is in the partnership name, any partner may convey title to such property by a conveyance executed in the partnership name; but the partnership may recover such property unless the partner's act binds the partnership under the provisions of subsection (1) of RCW 25.04.090, or unless such property has been conveyed by the grantee or a person claiming through such grantee to a holder for value without knowledge that the partner, in making the conveyance, has exceeded his authority.

(2) Where title to real property is in the name of the partnership, a conveyance executed by a partner, in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (1) of RCW 25.04.090.

(3) Where title to real property is in the name of one or more but not all the partners, and the record does not disclose the right of the partnership, the partners in whose name the title stands may convey title to such property, but the partnership may recover such property if the partners' act does not bind the partnership under the provisions of subsection (1) of RCW 25.04.090, unless the purchaser or his assignee, is a holder for value, without knowledge.

(4) Where the title to real property is in the name of one or more or all the partners, or in a third person in trust for the partnership, a conveyance executed by a partner in the partnership name, or in his own name, passes the equitable interest of the partnership, provided the act is one within the authority of the partner under the provisions of subsection (1) of RCW 25.04.090.

(5) Where the title to real property is in the names of all the partners a conveyance executed by all the partners passes all their rights in such property. [1955 c 15 § 25.04.100. Prior: 1945 c 137 § 10; Rem. Supp. 1945 § 9975-49.]

Fraudulent conveyances of partnership property: RCW 19.40.080.

25.04.110 Partnership bound by admission of partner. An admission or representation made by any partner concerning partnership affairs within the scope of his authority as conferred by this chapter is evidence against the partnership. [1955 c 15 § 25.04.110. Prior: 1945 c 137 § 11; Rem. Supp. 1945 § 9975-50.]

25.04.120 Partnership charged with knowledge of or notice to partner. Notice to any partner of any matter relating to partnership affairs, and the knowledge of the partner acting in the particular matter, acquired while a

partner or then present to his mind, and the knowledge of any other partner who reasonably could and should have communicated it to the acting partner, operate as notice to or knowledge of the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner. [1955 c 15 § 25.04.120. Prior: 1945 c 137 § 12; Rem. Supp. 1945 § 9975-51.]

25.04.130 Partnership bound by partner's wrongful act. Where, by any wrongful act or omission of any partner acting in the ordinary course of the business of the partnership or with the authority of his copartners, loss or injury is caused to any person, not being a partner in the partnership, or any penalty is incurred, the partnership is liable therefor to the same extent as the partner so acting or omitting to act. [1955 c 15 § 25.04.130. Prior: 1945 c 137 § 13; Rem. Supp. 1945 § 9975-52.]

25.04.140 Partnership bound by partner's breach of trust. The partnership is bound to make good the loss:

(1) Where one partner acting within the scope of his apparent authority receives money or property of a third person and misapplies it; and

(2) Where the partnership in the course of its business receives money or property of a third person and the money or property so received is misapplied by any partner while it is in the custody of the partnership. [1955 c 15 § 25.04.140. Prior: 1945 c 137 § 14; Rem. Supp. 1945 § 9975-53.]

25.04.150 Nature of partner's liability. All partners are liable:

(1) Jointly and severally for everything chargeable to the partnership under RCW 25.04.130 and 25.04.140.

(2) Jointly for all other debts and obligations of the partnership; but any partner may enter into a separate obligation to perform a partnership contract. [1955 c 15 § 25.04.150. Prior: 1945 c 137 § 15; Rem. Supp. 1945 § 9975-54.]

25.04.160 Partner by estoppel. (1) When a person, by words spoken or written or by conduct, represents himself, or consents to another representing him to any one, as a partner in an existing partnership or with one or more persons not actual partners, he is liable to any such person to whom such representation has been made, who has, on the faith of such representation, given credit to the actual or apparent partnership, and if he has made such representation or consented to its being made in a public manner he is liable to such person, whether the representation has or has not been made or communicated to such person so giving credit by or with the knowledge of the apparent partner making the representation or consenting to its being made.

(a) When a partnership liability results, he is liable as though he were an actual member of the partnership.

(b) When no partnership liability results, he is liable jointly with the other persons, if any, so consenting to the contract or representation as to incur liability, otherwise separately.

(2) When a person has been thus represented to be a partner in an existing partnership, or with one or more persons not actual partners, he is an agent of the persons consenting to such representation to bind them to the same extent and in the same manner as though he were a partner in fact, with respect to persons who rely upon the representation. Where all the members of the existing partnership consent to the representation, a partnership act or obligation results; but in all other cases it is the joint act or obligation of the person acting and the persons consenting to the representation. [1955 c 15 § 25.04.160. Prior: 1945 c 137 § 16; Rem. Supp. 1945 § 9975-55.]

25.04.170 Liability of incoming partner. A person admitted as a partner into an existing partnership is liable for all the obligations of the partnership arising before his admission as though he had been a partner when such obligations were incurred, except that this liability shall be satisfied only out of the partnership property. [1955 c 15 § 25.04.170. Prior: 1945 c 137 § 17; Rem. Supp. 1945 § 9975-56.]

PART IV RELATIONS OF PARTNERS TO ONE ANOTHER

25.04.180 Rules determining rights and duties of partners. The rights and duties of the partners in relation to the partnership shall be determined, subject to any agreement between them, by the following rules:

(1) Each partner shall be repaid his contributions, whether by way of capital or advances to the partnership property and share equally in the profits and surplus remaining after all liabilities, including those to partners, are satisfied; and must contribute toward the losses, whether of capital or otherwise, sustained by the partnership according to his share in the profits.

(2) The partnership must indemnify every partner in respect of payments made and personal liabilities reasonably incurred by him in the ordinary and proper conduct of its business, or for the preservation of its business or property.

(3) A partner, who in aid of the partnership makes any payment or advance beyond the amount of capital which he agreed to contribute, shall be paid interest from the date of the payment or advance.

(4) A partner shall receive interest on the capital contributed by him only from the date when repayment should be made.

(5) All partners have equal rights in the management and conduct of the partnership business.

(6) No partner is entitled to remuneration for acting in the partnership business, except that a surviving partner is entitled to reasonable compensation for his services in winding up the partnership affairs.

(7) No person can become a member of a partnership without the consent of all the partners.

(8) Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners; but no act in contravention of any agreement between the partners may be done rightfully without the consent of all the partners. [1955 c 15

§ 25.04.180. Prior: 1945 c 137 § 18; Rem. Supp. 1945 § 9975-57.]

25.04.190 Partnership books. The partnership books shall be kept, subject to any agreement between the partners, at the principal place of business of the partnership, and every partner shall at all times have access to and may inspect and copy any of them. [1955 c 15 § 25.04.190. Prior: 1945 c 137 § 19; Rem. Supp. 1945 § 9975-58.]

25.04.200 Duty of partners to render information. Partners shall render on demand true and full information of all things affecting the partnership to any partner or the legal representative of any deceased partner or partner under legal disability. [1955 c 15 § 25.04.200. Prior: 1945 c 137 § 20; Rem. Supp. 1945 § 9975-59.]

25.04.210 Partner accountable as a fiduciary. (1) Every partner must account to the partnership for any benefit, and hold as trustee for it any profits derived by him without the consent of the other partners from any transaction connected with the formation, conduct, or liquidation of the partnership or from any use by him of its property.

(2) This section applies also to the representatives of a deceased partner engaged in the liquidation of the affairs of the partnership as the personal representatives of the last surviving partner. [1955 c 15 § 25.04.210. Prior: 1945 c 137 § 21; Rem. Supp. 1945 § 9975-60.]

25.04.220 Right to an account. Any partner shall have the right to a formal account as to partnership affairs:

(1) If he is wrongfully excluded from the partnership business or possession of its property by his copartners,

(2) If the right exists under the terms of any agreement,

(3) As provided by RCW 25.04.210,

(4) Whenever other circumstances render it just and reasonable. [1955 c 15 § 25.04.220. Prior: 1945 c 137 § 22; Rem. Supp. 1945 § 9975-61.]

25.04.230 Continuation of partnership beyond fixed term. (1) When a partnership for a fixed term or particular undertaking is continued after the termination of such term or particular undertaking without any express agreement, the rights and duties of the partners remain the same as they were at such termination, so far as is consistent with a partnership at will.

(2) A continuation of the business by the partners or such of them as habitually acted therein during the term, without any settlement or liquidation of the partnership affairs, is prima facie evidence of a continuation of the partnership. [1955 c 15 § 25.04.230. Prior: 1945 c 137 § 23; Rem. Supp. 1945 § 9975-62.]

PART V PROPERTY RIGHTS OF A PARTNER

25.04.240 Extent of property rights of partner. The property rights of a partner are (1) his rights in specific

partnership property, (2) his interest in the partnership, and (3) his right to participate in the management. [1955 c 15 § 25.04.240. Prior: 1945 c 137 § 24; Rem. Supp. 1945 § 9975-63.]

25.04.250 Nature of a partner's right in specific partnership property. (1) A partner is co-owner with his partners of specific partnership property holding as a tenant in partnership.

(2) The incidents of this tenancy are such that:

(a) A partner, subject to the provisions of this chapter and to any agreement between the partners, has an equal right with his partners to possess specific partnership property for partnership purposes; but he has no right to possess such property for any other purpose without the consent of his partners.

(b) A partner's right in specific partnership property is not assignable except in connection with the assignment of rights of all the partners in the same property.

(c) A partner's right in specific partnership property is not subject to attachment or execution, except on a claim against the partnership. When partnership property is attached for a partnership debt, the partners, or any of them, or the representatives of a deceased partner, cannot claim any right under the homestead or exemption laws.

(d) On the death of a partner, his right in specific partnership property vests in the surviving partner or partners, except where the deceased was the last surviving partner, when his right in such property vests in his legal representative. Such surviving partner or partners, or the legal representative of the last surviving partner, has no right to possess the partnership property for any but a partnership purpose.

(e) A partner's right in specific partnership property is not subject to dower, curtesy, or allowances to a surviving spouse, heirs, or next of kin. [1973 1st ex.s. c 154 § 25; 1955 c 15 § 25.04.250. Prior: 1945 c 137 § 25; Rem. Supp. 1945 § 9975-64.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

25.04.260 Nature of partner's interest in the partnership. A partner's interest in the partnership is his share of the profits and surplus, and the same is personal property. [1955 c 15 § 25.04.260. Prior: 1945 c 137 § 26; Rem. Supp. 1945 § 9975-65.]

25.04.270 Assignment of partner's interest. (1) A conveyance by a partner of his interest in the partnership does not of itself dissolve the partnership, nor, as against the other partners in the absence of agreement, entitle the assignees, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any information or account of partnership transactions, or to inspect the partnership books; but it merely entitles the assignee to receive in accordance with his contract the profits to which the assigning partner would otherwise be entitled.

(2) In case of a dissolution of the partnership, the assignee is entitled to receive his assignor's interest and

may require an account from the date only of the last account agreed to by all the partners. [1955 c 15 § 25.04.270. Prior: 1945 c 137 § 27; Rem. Supp. 1945 § 9975-66.]

25.04.280 Partner's interest subject to charging order. (1) On due application to a competent court by any judgment creditor of a partner, the court which entered the judgment, order, or decree, or any other court, may charge the interest of the debtor partner with payment of the unsatisfied amount of such judgment debt with interest thereon; and may then or later appoint a receiver of his share of the profits, and of any other money due or to fall due to him in respect of the partnership, and make all other orders, directions, accounts and inquiries which the debtor partner might have made, or which the circumstances of the case may require.

(2) The interest charged may be redeemed at any time before foreclosure, or in case of a sale being directed by the court may be purchased without thereby causing a dissolution:

(a) With separate property, by any one or more of the partners, or

(b) With partnership property, by any one or more of the partners with the consent of all the partners whose interests are not so charged or sold.

(3) Nothing in this chapter shall be held to deprive a partner of his right, if any, under the exemption laws, as regards his interest in the partnership. [1955 c 15 § 25.04.280. Prior: 1945 c 137 § 28; Rem. Supp. 1945 § 9975-67.]

PART VI DISSOLUTION AND WINDING UP

25.04.290 Dissolution defined. The dissolution of a partnership is the change in the relation of the partners caused by any partner ceasing to be associated in the carrying on as distinguished from winding up of the business. [1955 c 15 § 25.04.290. Prior: 1945 c 137 § 29; Rem. Supp. 1945 § 9975-68.]

25.04.300 Partnership not terminated by dissolution. On dissolution the partnership is not terminated, but continues until the winding up of partnership affairs is completed. [1955 c 15 § 25.04.300. Prior: 1945 c 137 § 30; Rem. Supp. 1945 § 9975-69.]

25.04.310 Causes of dissolution. Dissolution is caused:

(1) Without violation of the agreement between the partners,

(a) By the termination of the definite term or particular undertaking specified in the agreement,

(b) By the express will of any partner when no definite term or particular undertaking is specified,

(c) By the express will of all the partners who have not assigned their interests or suffered them to be charged for their separate debts, either before or after the termination of any specified term or particular undertaking,

(d) By the expulsion of any partner from the business bona fide in accordance with such a power conferred by the agreement between the partners;

(2) In contravention of the agreement between the partners, where the circumstances do not permit a dissolution under any other provision of this section, by the express will of any partner at any time;

(3) By any event which makes it unlawful for the business of the partnership to be carried on or for the members to carry it on in partnership;

(4) By the death of any partner;

(5) By the bankruptcy of any partner of the partnership;

(6) By decree of court under RCW 25.04.320. [1955 c 15 § 25.04.310. Prior: 1945 c 137 § 31; Rem. Supp. 1945 § 9975-70.]

25.04.320 Dissolution by decree of court. (1) On application by or for a partner the court shall decree a dissolution whenever:

(a) A partner has been declared a lunatic in any judicial proceeding or is shown to be of unsound mind,

(b) A partner becomes in any other way incapable of performing his part of the partnership contract,

(c) A partner has been guilty of such conduct as tends to affect prejudicially the carrying on of the business,

(d) A partner wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable to carry on the business in partnership with him,

(e) The business of the partnership can only be carried on at a loss,

(f) Other circumstances render dissolution equitable.

(2) On the application of the purchaser of a partner's interest under RCW 25.04.270 and 25.04.280:

(a) After the termination of the specified term or particular undertaking,

(b) At any time if the partnership was a partnership at will when the interest was assigned or when the charging order was issued. [1955 c 15 § 25.04.320. Prior: 1945 c 137 § 32; Rem. Supp. 1945 § 9975-71.]

25.04.330 General effect of dissolution on authority of partner. Except so far as may be necessary to wind up partnership affairs or to complete transactions begun but not then finished, dissolution terminates all authority of any partner to act for the partnership,

(1) With respect to the partners,

(a) When the dissolution is not by the act, bankruptcy or death of a partner; or

(b) When the dissolution is by such act, bankruptcy or death of a partner, in cases where RCW 25.04.340 so requires.

(2) With respect to persons not partners, as declared in RCW 25.04.350. [1955 c 15 § 25.04.330. Prior: 1945 c 137 § 33; Rem. Supp. 1945 § 9975-72.]

25.04.340 Right of partner to contribution from copartners after dissolution. Where the dissolution is caused by the act, death or bankruptcy of a partner, each partner is liable to his copartners for his share of

any liability created by any partner acting for the partnership as if the partnership had not been dissolved unless:

(1) The dissolution being by act of any partner, the partner acting for the partnership had knowledge of the dissolution, or

(2) The dissolution being by the death or bankruptcy of a partner, the partner acting for the partnership had knowledge or notice of the death or bankruptcy. [1955 c 15 § 25.04.340. Prior: 1945 c 137 § 34; Rem. Supp. 1945 § 9975-73.]

25.04.350 Power of partner to bind partnership to third persons after dissolution. (1) After dissolution a partner can bind the partnership except as provided in subsection (3) of this section:

(a) By any act appropriate for winding up partnership affairs or completing transactions unfinished at dissolution;

(b) By any transaction which would bind the partnership if dissolution had not taken place, provided the other party to the transaction:

(i) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of the dissolution; or

(ii) Though he had not so extended credit, had nevertheless known of the partnership prior to dissolution, and, having no knowledge or notice of dissolution, the fact of dissolution had not been advertised in a newspaper of general circulation in the place (or in each place if more than one) at which the partnership business was regularly carried on.

(2) The liability of a partner under subsection (1)(b) shall be satisfied out of partnership assets alone when such partner had been prior to dissolution:

(a) Unknown as a partner to the person with whom the contract is made; and

(b) So far unknown and inactive in partnership affairs that the business reputation of the partnership could not be said to have been in any degree due to his connection with it.

(3) The partnership is in no case bound by any act of a partner after dissolution:

(a) Where the partnership is dissolved because it is unlawful to carry on the business, unless the act is appropriate for winding up partnership affairs; or

(b) Where the partner has become bankrupt; or

(c) Where the partner has no authority to wind up partnership affairs; except by a transaction with one who:

(i) Had extended credit to the partnership prior to dissolution and had no knowledge or notice of his want of authority; or

(ii) Had not extended credit to the partnership prior to dissolution, and, having no knowledge or notice of his want of authority, the fact of his want of authority has not been advertised in the manner provided for advertising the fact of dissolution in subsection (1)(b)(ii).

(4) Nothing in this section shall affect the liability under RCW 25.04.160 of any person who after dissolution represents himself or consents to another representing him as a partner in a partnership engaged in

carrying on business. [1955 c 15 § 25.04.350. Prior: 1945 c 137 § 35; Rem. Supp. 1945 § 9975-74.]

25.04.360 Effect of dissolution on partner's existing liability. (1) The dissolution of the partnership does not of itself discharge the existing liability of any partner.

(2) A partner is discharged from any existing liability upon dissolution of the partnership by an agreement to that effect between himself, the partnership creditor and the person or partnership continuing the business; and such agreement may be inferred from the course of dealing between the creditor having knowledge of the dissolution and the person or partnership continuing the business.

(3) Where a person agrees to assume the existing obligations of a dissolved partnership, the partners whose obligations have been assumed shall be discharged from any liability to any creditor of the partnership who, knowing of the agreement, consents to a material alteration in the nature or time of payment of such obligations.

(4) The individual property of a deceased partner shall be liable for all obligations of the partnership incurred while he was a partner but subject to the prior payment of his separate debts. [1955 c 15 § 25.04.360. Prior: 1945 c 137 § 36; Rem. Supp. 1945 § 9975-75.]

25.04.370 Right to wind up. Unless otherwise agreed, the partners who have not wrongfully dissolved the partnership or the legal representative of the last surviving partner, not bankrupt, have the right to wind up the partnership affairs: *Provided, however,* That any partner, his legal representative, or his assignee, upon cause shown, may obtain winding up by the court. [1955 c 15 § 25.04.370. Prior: 1945 c 137 § 37; Rem. Supp. 1945 § 9975-76.]

25.04.380 Rights of partners to application of partnership property. (1) When dissolution is caused in any way, except in contravention of the partnership agreement, each partner, as against his copartners and all persons claiming through them in respect of their interests in the partnership, unless otherwise agreed, may have the partnership property applied to discharge its liabilities, and the surplus applied to pay in cash the net amount owing to the respective partners. But if dissolution is caused by expulsion of a partner, bona fide under the partnership agreement and if the expelled partner is discharged from all partnership liabilities, either by payment or agreement under RCW 25.04.360(2), he shall receive in cash only the net amount due him from the partnership.

(2) When dissolution is caused in contravention of the partnership agreement the rights of the partners shall be as follows:

(a) Each partner who has not caused dissolution wrongfully shall have,

(i) All the rights specified in subsection (1) of this section, and

(ii) The right, as against each partner who has caused the dissolution wrongfully, to damages for breach of the agreement.

(b) The partners who have not caused the dissolution wrongfully, if they all desire to continue the business in the same name, either by themselves or jointly with others, may do so, during the agreed term for the partnership and for that purpose may possess the partnership property provided they secure the payment by bond approved by the court, or pay to any partner who has caused the dissolution wrongfully, the value of his interest in the partnership at the dissolution, less any damages recoverable under subsection (2)(a)(ii) of this section, and in like manner indemnify him against all present or future partnership liabilities.

(c) A partner who has caused the dissolution wrongfully shall have:

(i) If the business is not continued under the provisions of subsection (2)(b) all the rights of a partner under subsection (1), subject to subsection (2)(a)(ii), of this section,

(ii) If the business is continued under subsection (2)(b) of this section the right as against his copartners and all claiming through them in respect of their interests in the partnership, to have the value of his interests in the partnership, less any damages caused to his copartners by the dissolution, ascertained and paid to him in cash, or the payment secured by bond approved by the court, and to be released from all existing liabilities of the partnership; but in ascertaining the value of the partner's interest the value of the good will of the business shall not be considered. [1955 c 15 § 25.04.380. Prior: 1945 c 137 § 38; Rem. Supp. 1945 § 9975-77.]

25.04.390 Rights where partnership is dissolved for fraud or misrepresentation. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

(1) To a lien on, or right of retention of, the surplus of the partnership property after satisfying the partnership liabilities to third persons for any sum of money paid by him for the purchase of an interest in the partnership and for any capital or advances contributed by him; and

(2) To stand, after all liabilities to third persons have been satisfied, in the place of the creditors of the partnership for any payments made by him in respect of the partnership liabilities; and

(3) To be indemnified by the person guilty of the fraud or making the representation against all debts and liabilities of the partnership. [1955 c 15 § 25.04.390. Prior: 1945 c 137 § 39; Rem. Supp. 1945 § 9975-78.]

25.04.400 Rules for distribution. In settling accounts between the partners after dissolution, the following rules shall be observed, subject to any agreement to the contrary:

(1) The assets of the partnership are:

(a) The partnership property,

(b) The contributions of the partners necessary for the payment of all the liabilities specified in subsection (2) of this section.

(2) The liabilities of the partnership shall rank in order of payment, as follows:

(a) Those owing to creditors other than partners,

(b) Those owing to partners other than for capital and profits.

(c) Those owing to partners in respect of capital,

(d) Those owing to partners in respect of profits.

(3) The assets shall be applied in the order of their declaration in subdivision (1) of this section to the satisfaction of the liabilities.

(4) The partners shall contribute, as provided by RCW 25.04.180(1) the amount necessary to satisfy the liabilities; but if any, but not all, of the partners are insolvent, or, not being subject to process, refuse to contribute, the other partners shall contribute their share of the liabilities, and, in the relative proportions in which they share the profits, the additional amount necessary to pay the liabilities.

(5) An assignee for the benefit of creditors or any person appointed by the court shall have the right to enforce the contribution specified in subdivision (4) of this section.

(6) Any partner or his legal representative shall have the right to enforce the contributions specified in subdivision (4) of this section, to the extent of the amount which he has paid in excess of his share of the liability.

(7) The individual property of a deceased partner shall be liable for the contributions specified in subdivision (4) of this section.

(8) When partnership property and the individual properties of the partners are in possession of a court for distribution, partnership creditors shall have priority on partnership property and separate creditors on individual property, saving the rights of lien or secured creditors as heretofore.

(9) Where a partner has become bankrupt or his estate is insolvent the claims against his separate property shall rank in the following order:

(a) Those owing to separate creditors,

(b) Those owing to partnership creditors,

(c) Those owing to partners by way of contribution. [1955 c 15 § 25.04.400. Prior: 1945 c 137 § 40; Rem. Supp. 1945 § 9975-79.]

25.04.410 Liability of persons continuing the business in certain cases. (1) When any new partner is admitted into an existing partnership, or when any partner retires and assigns (or the representative of the deceased partner assigns) his rights in partnership property to two or more of the partners, or to one or more of the partners and one or more third persons, if the business is continued without liquidation of the partnership affairs, creditors of the first or dissolved partnership are also creditors of the partnership so continuing the business.

(2) When all but one partner retire and assign (or the representative of a deceased partner assigns) their rights in partnership property to the remaining partner, who continues the business without liquidation of partnership affairs, either alone or with others, creditors of the dissolved partnership are also creditors of the person or partnership so continuing the business.

(3) When any partner retires or dies and the business of the dissolved partnership is continued as set forth in subsections (1) and (2) of this section, with the consent of the retired partners or the representative of the

deceased partner, but without any assignment of his right in partnership property, rights of creditors of the dissolved partnership and of the creditors of the person or partnership continuing the business shall be as if such assignment had been made.

(4) When all the partners or their representatives assign their rights in partnership property to one or more third persons who promise to pay the debts and who continue the business of the dissolved partnership, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(5) When any partner wrongfully causes a dissolution and the remaining partners continue the business under the provisions of RCW 25.04.380(2)(b), either alone or with others, and without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(6) When a partner is expelled and the remaining partners continue the business either alone or with others, without liquidation of the partnership affairs, creditors of the dissolved partnership are also creditors of the person or partnership continuing the business.

(7) The liability of a third person becoming a partner in the partnership continuing the business, under this section, to the creditors of the dissolved partnership shall be satisfied out of partnership property only.

(8) When the business of a partnership after dissolution is continued under any conditions set forth in this section the creditors of the dissolved partnership, as against the separate creditors of the retiring or deceased partner or the representative of the deceased partner, have a prior right to any claim of the retired partner or the representative of the deceased partner against the person or partnership continuing the business, on account of the retired or deceased partner's interest in the dissolved partnership or on account of any consideration promised for such interest or for his right in partnership property.

(9) Nothing in this section shall be held to modify any right of creditors to set aside any assignment on the ground of fraud.

(10) The use by the person or partnership continuing the business of the partnership name, or the name of a deceased partner as part thereof, shall not of itself make the individual property of the deceased partner liable for any debts contracted by such person or partnership. [1955 c 15 § 25.04.410. Prior: 1945 c 137 § 41; Rem. Supp. 1945 § 9975-80.]

25.04.420 Rights of retiring or estate of deceased partner when business is continued. When any partner retires or dies, and the business is continued under any of the conditions set forth in RCW 25.04.410(1), (2), (3), (5), (6), or RCW 25.04.380(2)(b), without any settlement of accounts as between him or his estate and the person or partnership continuing the business, unless otherwise agreed, he or his legal representative as against such persons or partnerships may have the value of his interest at the date of dissolution ascertained, and shall receive as an ordinary creditor an amount equal to the value of his interest in the dissolved partnership with

interest, or, at his option or at the option of his legal representative, in lieu of interest, the profits attributable to the use of his right in the property of the dissolved partnership: *Provided*, That the creditors of the dissolved partnership as against the separate creditors, or the representative of the retired or deceased partner, shall have priority on any claim arising under this section as provided by RCW 25.04.410(8). [1955 c 15 § 25.04.420. Prior: 1945 c 137 § 42; Rem. Supp. 1945 § 9975–81.]

25.04.430 Accrual of actions. The right to an account of his interest shall accrue to any partner, or his legal representative, as against the winding up partners or the surviving partners or the person or partnership continuing the business, at the date of dissolution, in the absence of any agreement to the contrary. [1955 c 15 § 25.04.430. Prior: 1945 c 137 § 43; Rem. Supp. 1945 § 9975–82.]

**Chapter 25.08
LIMITED PARTNERSHIPS**

Sections

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25.08.010 Limited partnership defined. A limited partnership is a partnership formed by two or more persons under the provisions of RCW 25.08.020 having as members one or more general partners and one or more limited partners. The limited partners as such shall not be bound by the obligations of the partnership. [1955 c 15 § 25.08.010. Prior: 1945 c 92 § 1; Rem. Supp. 1945 § 9975–1.]

25.08.020 Formation. Two or more persons desiring to form a limited partnership shall:

(1) Sign and acknowledge a certificate, which shall state:

- (a) The name of the partnership;
- (b) The character of the business;
- (c) The location of the principal place of business;
- (d) The name and place of residence of each member; general and limited partners being respectively designated;
- (e) The term for which the partnership is to exist;
- (f) The amount of cash and a description of and the agreed value of the other property contributed by each limited partner;
- (g) The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they shall be made;
- (h) The time, if agreed upon, when the contribution of each limited partner is to be returned;
- (i) The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution;
- (j) The right, if given, of a limited partner to substitute an assignee as contributor in his place and the terms and conditions of the substitution;
- (k) The right, if given, of the partners to admit additional limited partners;
- (l) The right, if given, of one or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority;
- (m) The right, if given, of the remaining general partner or partners to continue the business on the death, retirement, or insanity of a general partner; and
- (n) The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution; and
- (o) The right, if given, of a limited partner to vote upon any of the matters described in RCW 25.08.070, as now or hereafter amended, and the vote required for election or removal of general partners, or to cause other action to be effective as to the limited partnership.

(2) File for record the certificate in the office of the county clerk of the county of the principal place of business.

A limited partnership is formed if there has been substantial compliance in good faith with the foregoing requirements.

The signing of such certificate by a limited partner may be in person or for him by an attorney in fact who may but need not be a member of the partnership, who shall acknowledge such signature as such attorney in fact. [1972 ex.s. c 113 § 1; 1955 c 15 § 25.08.020. Prior: 1945 c 92 § 2; Rem. Supp. 1945 § 9975–2.]

25.08.030 Business which may be carried on. A limited partnership may carry on any business which a partnership without limited partners may carry on. [1955 c 15 § 25.08.030. Prior: 1945 c 92 § 3; Rem. Supp. 1945 § 9975–3.]

25.08.040 Character of limited partner's contribution. The contributions of a limited partner may be cash or other property, but not services. [1955 c 15 § 25.08.040. Prior: 1945 c 92 § 4; Rem. Supp. 1945 § 9975-4.]

25.08.050 A name not to contain surname of limited partner—Exception. (1) The surname of a limited partner shall not appear in the partnership name, unless:

- (a) It is also the surname of a general partner; or
- (b) Prior to the time when the limited partner became such the business had been carried on under a name in which that surname appeared.

(2) A limited partner whose name appears in a partnership name contrary to the provisions of subsection (1) is liable as a general partner to partnership creditors who extend credit to the partnership without actual knowledge that he is not a general partner. [1955 c 15 § 25.08.050. Prior: 1945 c 92 § 5; Rem. Supp. 1945 § 9975-5.]

25.08.060 Liability for false statements in certificate. If the certificate contains a false statement, one who suffers loss by reliance on such statement may hold liable any party to the certificate who knew the statement to be false:

- (1) At the time he signed the certificate; or
- (2) Subsequently, but within a sufficient time before the statement was relied upon to enable him to cancel or amend the certificate, or to file a petition for its cancellation or amendment as provided in RCW 25.08.250(3). [1955 c 15 § 25.08.060. Prior: 1945 c 92 § 6; Rem. Supp. 1945 § 9975-6.]

25.08.070 Limited partner not liable to creditors—Exception. (1) A limited partner shall not become liable as a general partner unless, in addition to the exercise of his rights and powers as limited partner, he takes part in the control of the business.

(2) A limited partner shall not be deemed to take part in the control of the business by virtue of his possessing or exercising a power, specified in the certificate, to vote upon matters affecting the basic structure of the partnership, including the following matters or others of a similar nature:

- (a) Election, removal, or substitution of general partners, including, but not limited to, transfer of a majority of the voting stock of a corporate general partner.
- (b) Termination of the partnership.
- (c) Amendment of the partnership agreement.
- (d) Sale of all or substantially all of the assets of the partnership.

(3) The statement of powers set forth in subsection (2) of this section shall not be construed as exclusive or as indicating that any other powers possessed or exercised by a limited partner shall be sufficient to cause such limited partner to be deemed to take part in the control of the business within the meaning of subsection (1) of this section. [1972 ex.s. c 113 § 2; 1955 c 15 § 25.08.070. Prior: 1945 c 92 § 7; Rem. Supp. 1945 § 9975-7.]

25.08.080 Admission of additional limited partners. After the formation of a limited partnership, additional limited partners may be admitted upon filing an amendment to the original certificate in accordance with the requirements of RCW 25.08.250. [1955 c 15 § 25.08-.080. Prior: 1945 c 92 § 8; Rem. Supp. 1945 § 9975-8.]

25.08.090 Rights, powers and liabilities of a general partner. A general partner shall have all the rights and powers and be subject to all the restrictions and liabilities of a partner in a partnership without limited partners, except that without the written consent or ratification of the specific act by all the limited partners, a general partner or all of the general partners have no authority to:

- (1) Do any act in contravention of the certificate;
- (2) Do any act which would make it impossible to carry on the ordinary business of the partnership;
- (3) Confess a judgment against the partnership;
- (4) Possess partnership property, or assign their rights in specific partnership property, for other than a partnership purpose;
- (5) Admit a person as a general partner;
- (6) Admit a person as a limited partner, unless the right so to do is given in the certificate;
- (7) Continue the business with partnership property on the death, retirement, or insanity of a general partner, unless the right so to do is given in the certificate.

In the event of the removal or failure of reelection of a general partner, pursuant to the vote of the limited partners in accordance with the certificate, such general partner shall cease to be liable as such upon the filing of an amended certificate of limited partnership as provided in RCW 25.08.240, as now or hereafter amended. [1972 ex.s. c 113 § 3; 1955 c 15 § 25.08.090. Prior: 1945 c 92 § 9; Rem. Supp. 1945 § 9975-9.]

25.08.100 Rights of a limited partner. (1) A limited partner shall have the same rights as a general partner to:

- (a) Have the partnership books kept at the principal place of business of the partnership, and at all times to inspect and copy any of them;
- (b) Have on demand true and full information of all things affecting the partnership, and a formal account of partnership affairs whenever circumstances render it just and reasonable; and
- (c) Have dissolution and winding up by decree of court.

(2) A limited partner shall have the right to receive a share of the profits or other compensation by way of income, and to the return of his contribution as provided in RCW 25.08.150 and 25.08.160. [1955 c 15 § 25.08-.100. Prior: 1945 c 92 § 10; Rem. Supp. 1945 § 9975-10.]

25.08.110 Status of person erroneously believing himself a limited partner. A person who has contributed to the capital of a business conducted by a person or partnership erroneously believing that he has become a limited partner in a limited partnership, is not, by reason

of his exercise of the rights of a limited partner, a general partner with the person or in the partnership carrying on the business, or bound by the obligations of such person or partnership: *Provided*, That on ascertaining the mistake he promptly renounces his interest in the profits of the business, or other compensation by way of income. [1955 c 15 § 25.08.110. Prior: 1945 c 92 § 11; Rem. Supp. 1945 § 9975-11.]

25.08.120 One person both general and limited partner. (1) A person may be a general partner and a limited partner in the same partnership at the same time.

(2) A person who is a general, and also at the same time a limited partner, shall have all the rights and powers and be subject to all the restrictions of a general partner; except that, in respect to his contribution, he shall have the rights against the other members which he would have had if he were not also a general partner. [1955 c 15 § 25.08.120. Prior: 1945 c 92 § 12; Rem. Supp. 1945 § 9975-12.]

25.08.130 Loans and other business transactions with limited partner. (1) A limited partner also may loan money to and transact other business with the partnership, and, unless he is also a general partner, receive on account of resulting claims against the partnership, with general creditors, a pro rata share of the assets. No limited partner shall in respect to any such claim:

(a) Receive or hold as collateral security any partnership property; or

(b) Receive from a general partner or the partnership any payment, conveyance, or release from liability, if at the time the assets of the partnership are not sufficient to discharge partnership liabilities to persons not claiming as general or limited partners.

(2) The receiving of collateral security, or a payment, conveyance, or release in violation of the provisions of subsection (1), is a fraud on the creditors of the partnership. [1955 c 15 § 25.08.130. Prior: 1945 c 92 § 13; Rem. Supp. 1945 § 9975-13.]

25.08.140 Relation of limited partners among themselves. Where there are several limited partners, the members may agree that one or more of the limited partners shall have a priority over other limited partners as to the return of their contributions, as to their compensation by way of income, or as to any other matter. If such an agreement is made, it shall be stated in the certificate, and in the absence of such a statement all the limited partners shall stand upon equal footing. [1955 c 15 § 25.08.140. Prior: 1945 c 92 § 14; Rem. Supp. 1945 § 9975-14.]

25.08.150 Compensation of limited partner. A limited partner may receive from the partnership the share of the profits or the compensation by way of income stipulated for in the certificate if after such payment is made, whether from the property of the partnership or that of a general partner, the partnership assets are in excess of all liabilities of the partnership except liabilities to limited partners on account of their contributions

and to general partners. [1955 c 15 § 25.08.150. Prior: 1945 c 92 § 15; Rem. Supp. 1945 § 9975-15.]

25.08.160 Withdrawal or reduction of limited partner's contribution. (1) A limited partner shall not receive from a general partner or out of partnership property any part of his contribution until:

(a) All liabilities of the partnership, except liabilities to general partners and to limited partners on account of their contributions, have been paid or there remains property of the partnership sufficient to pay them;

(b) The consent of all members is had, unless the return of the contribution may be rightfully demanded under the provisions of subsection (2); and

(c) The certificate is canceled or so amended as to set forth the withdrawal or reduction.

(2) Subject to the provisions of subsection (1) a limited partner may rightfully demand the return of his contribution:

(a) On the dissolution of a partnership; or

(b) When the date specified in the certificate for its return has arrived; or

(c) After he has given six months' notice in writing to all other members, if no time is specified in the certificate either for the return of the contribution or for the dissolution of the partnership.

(3) In the absence of any statement in the certificate to the contrary or the consent of all members, a limited partner, irrespective of the nature of his contribution, has only the right to demand and receive cash in return for his contribution.

(4) A limited partner may have the partnership dissolved and its affairs wound up when:

(a) He rightfully but unsuccessfully demands the return of his contribution; or

(b) The other liabilities of the partnership have not been paid, or the partnership property is insufficient for their payment as required by subsection (1)(a) and the limited partner would otherwise be entitled to the return of his contribution. [1955 c 15 § 25.08.160. Prior: 1945 c 92 § 16; Rem. Supp. 1945 § 9975-16.]

25.08.170 Liability of limited partner to partnership. (1) A limited partner is liable to the partnership:

(a) For the difference between his contribution as actually made and that stated in the certificate as having been made; and

(b) For any unpaid contribution which he agreed in the certificate to make in the future at the time and on the conditions stated in the certificate.

(2) A limited partner holds as trustee for the partnership:

(a) Specific property stated in the certificate as contributed by him, but which was not contributed or which has been wrongfully returned, and;

(b) Money or other property wrongfully paid or conveyed to him on account of his contribution.

(3) The liabilities of a limited partner as set forth in this section can be waived or compromised only by the consent of all members; but a waiver or compromise shall not affect the right of a creditor of a partnership, who extended credit or whose claim arose after the filing

and before a cancellation or amendment of the certificate, to enforce such liabilities.

(4) When a contributor has rightfully received the return in whole or in part of the capital of his contribution, he is nevertheless liable to the partnership for any sum, not in excess of such return with interest, necessary to discharge its liabilities to all creditors who extended credit or whose claims arose before each return. [1955 c 15 § 25.08.170. Prior: 1945 c 92 § 17; Rem. Supp. 1945 § 9975-17.]

25.08.180 Nature of limited partner's interest in partnership. A limited partner's interest in the partnership is personal property. [1955 c 15 § 25.08.180. Prior: 1945 c 92 § 18; Rem. Supp. 1945 § 9975-18.]

25.08.190 Assignment of limited partner's interest. (1) A limited partner's interest is assignable.

(2) A substituted limited partner is a person admitted to all the rights of a limited partner who has died or has assigned his interest in a partnership.

(3) An assignee, who does not become a substituted limited partner, has no right to require any information or account of the partnership transactions, to inspect the partnership books, or to vote on any of the matters as to which a limited partner would be entitled to vote pursuant to the provisions of RCW 25.08.070, as now or hereafter amended, and the certificate of limited partnership; he is only entitled to receive the share of the profits or other compensation by way of income, or the return of his contribution, to which his assignor would otherwise be entitled.

(4) An assignee shall have the right to become a substituted limited partner if all the members (except the assignor) consent thereto or if the assignor, being thereunto empowered by the certificate, gives the assignee that right.

(5) An assignee becomes a substituted limited partner when the certificate is appropriately amended in accordance with RCW 25.08.250.

(6) The substituted limited partner has all the rights and powers, and is subject to all the restrictions and liabilities of his assignor, except those liabilities of which he was ignorant at the time he became a limited partner and which could not be ascertained from the certificate.

(7) The substitution of the assignee as a limited partner does not release the assignor from liability to the partnership under RCW 25.08.060 and 25.08.170. [1972 ex.s. c 113 § 4; 1955 c 15 § 25.08.190. Prior: 1945 c 92 § 19; Rem. Supp. 1945 § 9975-19.]

25.08.200 Effect of retirement, death or insanity of a general partner. The retirement, death or insanity of a general partner dissolves the partnership, unless the business is continued by the remaining general partners:

- (1) Under a right so to do stated in the certificate; or
- (2) With the consent of all members. [1955 c 15 § 25.08.200. Prior: 1945 c 92 § 20; Rem. Supp. 1945 § 9975-20.]

25.08.210 Death of limited partner. (1) On the death of a limited partner, his executor or administrator shall

have all the rights of a limited partner for the purpose of settling his estate, and such power as the deceased had to constitute his assignee a substituted limited partner.

(2) The estate of a deceased limited partner shall be liable for all his liabilities as a limited partner. [1955 c 15 § 25.08.210. Prior: 1945 c 92 § 21; Rem. Supp. 1945 § 9975-21.]

25.08.220 Rights of creditors of limited partner. (1) On due application to a court of competent jurisdiction by any creditor of a limited partner, the court may charge the interest of the indebted limited partner with payment of the unsatisfied amount of such claim; and may appoint a receiver, and make all other orders, directions, and inquiries which the circumstances of the case may require.

(2) The interest may be redeemed with the separate property of any general partner, but may not be redeemed with partnership property.

(3) The remedies conferred by subsection (1) shall not be deemed exclusive of others which may exist.

(4) Nothing in this chapter shall be held to deprive a limited partner of his statutory exemptions. [1955 c 15 § 25.08.220. Prior: 1945 c 92 § 22; Rem. Supp. 1945 § 9975-22.]

25.08.230 Distribution of assets. (1) In settling accounts after dissolution the liabilities of the partnership shall be entitled to payment in the following order:

(a) Those to creditors, in the order of priority as provided by law, except those to limited partners on account of their contributions, and to general partners;

(b) Those to limited partners in respect to their share of the profits and other compensation by way of income on their contributions;

(c) Those to limited partners in respect to the capital of their contributions;

(d) Those to general partners other than for capital and profits;

(e) Those to general partners in respect to profits;

(f) Those to general partners in respect to capital.

(2) Subject to any statement in the certificate or to subsequent agreement, limited partners share in the partnership assets in respect to their claims for capital, and in respect to their claims for profits or for compensation by way of income on their contributions respectively, in proportion to the respective amounts of such claims. [1955 c 15 § 25.08.230. Prior: 1945 c 92 § 23; Rem. Supp. 1945 § 9975-23.]

25.08.240 When certificate shall be canceled or amended. (1) The certificate shall be canceled when the partnership is dissolved or all limited partners cease to be such.

(2) A certificate shall be amended when:

(a) There is a change in the name of the partnership or in the amount or character of the contribution made, or to be made, by any limited partner;

(b) A person is substituted as a limited partner;

(c) An additional limited partner is admitted;

(d) A person is admitted as a general partner;

(e) A general partner retires, dies, or becomes insane, and the business is continued under RCW 25.08.200;

(f) There is a change in the character of the business of the partnership;

(g) There is a false or erroneous statement in the certificate;

(h) There is a change in the time as stated in the certificate for the dissolution of the partnership or for the return of a contribution;

(i) A time is fixed for the dissolution of the partnership, or the return of a contribution, no time having been specified in the certificate;

(j) There is a change in the right to vote upon any of the matters described in RCW 25.08.070, as now or hereafter amended; or

(k) The members desire to make a change in any other statement in the certificate in order that it may accurately represent the agreement between them. [1972 ex.s. c 113 § 5; 1955 c 15 § 25.08.240. Prior: 1945 c 92 § 24; Rem. Supp. 1945 § 9975-24.]

25.08.250 Requirements for amendment and for cancellation of certificate. (1) The writing to amend a certificate shall:

(a) Conform to the requirements of RCW 25.08.020(1) as far as necessary to set forth clearly the change in the certificate which it is desired to make; and

(b) Be signed and sworn to by all members, and an amendment substituting a limited partner or adding a limited or general partner shall be signed also by the member to be substituted or added, and when a limited partner is to be substituted, the amendment shall also be signed by the assigning limited partner.

(2) The writing to cancel a certificate shall be signed by all members.

(3) A person desiring the cancellation or amendment of a certificate, if any person designated in subsections (1) and (2) as a person who must execute the writing refuses to do so, may petition a court of competent jurisdiction to direct a cancellation or amendment thereof.

(4) If the court finds that the petitioner has a right to have the writing executed by a person who refuses to do so, it shall order the county clerk in the office where the certificate is recorded to record the cancellation or amendment of the certificate; and where the certificate is to be amended, the court shall also cause to be filed for record in said office a certified copy of its decree setting forth the amendment.

(5) A certificate is amended or canceled when there is filed for record in the office of the county clerk where the certificate is recorded:

(a) A writing in accordance with the provisions of subsections (1) or (2); or

(b) A certified copy of the order of court in accordance with the provisions of subsection (4).

(6) After the certificate is duly amended in accordance with this section, the amended certificate shall thereafter be for all purposes the certificate provided for by this chapter. [1955 c 15 § 25.08.250. Prior: 1945 c 92 § 25; Rem. Supp. 1945 § 9975-25.]

25.08.260 Parties to actions. A contributor, unless he is a general partner, is not a proper party to proceedings by or against a partnership, except where the object is to enforce a limited partner's right against or liability to the partnership. [1955 c 15 § 25.08.260. Prior: 1945 c 92 § 26; Rem. Supp. 1945 § 9975-26.]

25.08.270 Name of chapter. This chapter may be cited as the uniform limited partnership act. [1955 c 15 § 25.08.270. Prior: 1945 c 92 § 27; Rem. Supp. 1945 § 9975-27.]

25.08.280 Rules of construction. (1) The rule that statutes in derogation of the common law are to be strictly construed shall have no application to this chapter.

(2) This chapter shall be so interpreted and construed as to effect its general purpose to make uniform the law of those states which enact it.

(3) This chapter shall not be so construed as to impair the obligations of any contract existing when the chapter goes into effect, nor to affect any action or proceedings begun or right accrued before this chapter takes effect. [1955 c 15 § 25.08.280. Prior: 1945 c 92 § 28; Rem. Supp. 1945 § 9975-28.]

25.08.290 Rules for cases not provided for in this chapter. In any case not provided for in this chapter the rules of law and equity, including the law merchant, shall govern. [1955 c 15 § 25.08.290. Prior: 1945 c 92 § 29; Rem. Supp. 1945 § 9975-29.]

25.08.300 Provisions for existing limited partnerships. (1) A limited partnership formed under any statute of this state prior to June 6, 1945, may become a limited partnership under this chapter by complying with the provisions of RCW 25.08.020; provided the certificate sets forth:

(a) The amount of the original contribution of each limited partner, and the time when the contribution was made; and

(b) That the property of the partnership exceeds the amount sufficient to discharge its liabilities to persons not claiming as general or limited partners by an amount greater than the sum of the contributions of its limited partners.

(2) A limited partnership formed under any statute of this state prior to June 6, 1945 until or unless it becomes a limited partnership hereunder, shall continue to be governed by the provisions of RCW 25.12.010 through 25.12.100, except that such partnership shall not be renewed unless so provided in the original agreement. [1955 c 15 § 25.08.300. Prior: 1945 c 92 § 30; Rem. Supp. 1945 § 9975-30.]

25.08.310 Schedule of repeals. Except as affecting limited partnerships to the extent set forth in RCW 25.08.300; section 1, chapter 106, Laws of 1927, and that act entitled "AN ACT to authorize the formation of limited partnerships," enacted December 2, 1869, Laws of 1869, page 380, Code of 1881, sections 2370 through 2379 (RCW 25.12.010 through 25.12.100;

Rem. Rev. Stats. sections 9966 through 9975), are hereby repealed. [1955 c 15 § 25.08.310.]

Chapter 25.12
LIMITED PARTNERSHIPS EXISTING PRIOR TO
JUNE 6, 1945

Sections

25.12.005	Application of chapter.
25.12.010	Limited partnership may be formed.
25.12.020	Of whom composed—Liability of members.
25.12.030	Certificate to be made, acknowledged and filed.
25.12.040	False statement—Publication of copy.
25.12.050	Renewal of limited partnership.
25.12.060	Name of firm—When special partner liable as general partner.
25.12.070	Withdrawal of stock and profits—Effect.
25.12.080	Suits by and against limited partnership—Parties.
25.12.090	Dissolution, how accomplished.
25.12.100	Liabilities and rights of members of firm.

25.12.005 Application of chapter. The provisions of this chapter shall apply only to those limited partnerships which were in existence on or prior to June 6, 1945 and which have not become a limited partnership under chapter 25.08 RCW. [1955 c 15 § 25.12.005.]

25.12.010 Limited partnership may be formed. Limited partnerships for the transaction of mercantile, mechanical, or manufacturing business may be formed within this state, by two or more persons, upon the terms and subject to the conditions contained in this chapter. [1955 c 15 § 25.12.010. Prior: 1869 p 380 § 1; RRS § 9966.]

25.12.020 Of whom composed—Liability of members. A limited partnership may consist of two or more persons, who are known and called general partners, and are jointly liable as general partners now are by law, and of two or more persons who shall contribute to the common stock a specific sum in actual money as capital, and are known and called special partners, and are not personally liable for any of the debts of the partnership, except as in this chapter specially provided. [1955 c 15 § 25.12.020. Prior: 1927 c 106 § 1; 1869 p 380 § 2; RRS § 9967.]

25.12.030 Certificate to be made, acknowledged and filed. The persons forming such partnership shall make and severally subscribe a certificate, in duplicate, and file one of such certificates with the county auditor of the county in which the principal place of business of the partnership is to be. Before being filed, the execution of such certificate shall be acknowledged by each partner subscribing it before some officer authorized to take acknowledgments of deeds; and such certificate shall contain the name assumed by the partnership and under which its business is to be conducted, the names and respective places of residence of all the general and special partners, the amount of capital which each special partner has contributed to the common stock, the general nature of the business to be transacted, and the time when the partnership is to commence, and when it is to terminate. [1955 c 15 § 25.12.030. Prior: 1869 p 380 § 3; RRS § 9968.]

25.12.040 False statement—Publication of copy. Such partnership cannot commence before the filing of the certificate of partnership, and if a false statement is made in such certificate, all the persons subscribing thereto are liable as general partners for all the debts of the partnership. The partners shall, for four consecutive weeks immediately after the filing of the certificate of partnership, publish a copy of it in some weekly newspaper published in the county where the principal place of business of the partnership is, or if no such paper be published therein, then in some newspaper of general circulation therein, and until such publication is made and completed, the partnership is to be deemed general. [1955 c 15 § 25.12.040. Prior: 1869 p 380 § 4; RRS § 9969.]

25.12.050 Renewal of limited partnership. A limited partnership may be continued or renewed by making, acknowledging, filing, and publishing a certificate thereof, in the manner provided in this chapter for the formation of such partnership originally, and every such partnership, not renewed or continued as herein provided, from and after the expiration thereof according to the original certificate, shall be a general partnership. [1955 c 15 § 25.12.050. Prior: 1869 p 381 § 5; RRS § 9970.]

25.12.060 Name of firm—When special partner liable as general partner. The business of the partnership may be conducted under a name in which the names of the general partners only shall be inserted, without the addition of the word "company" or any other general term. If the name of any special partner is used in such firm with his consent or privity, he shall be deemed and treated as a general partner, or if he personally makes any contract respecting the concerns of the partnership with any person except the general partners, he shall be deemed and treated as a general partner in relation to such contract, unless he makes it appear that in making such contract he acted and was recognized as a special partner only. [1955 c 15 § 25.12.060. Prior: 1869 p 381 § 6; RRS § 9971.]

25.12.070 Withdrawal of stock and profits—Effect. During the continuance of any partnership formed under this chapter no part of the capital stock thereof shall be withdrawn, nor any division of interests or profits be made, so as to reduce such capital stock below the sum stated in the certificate of partnership before mentioned; and if at any time during the continuance or at the termination of such partnership, the property or assets thereof are not sufficient to satisfy the partnership debts then the special partners shall be severally liable for all sums or amounts by them in any way received or withdrawn from such capital stock, with interest thereon from the time they were so received or withdrawn respectively. [1955 c 15 § 25.12.070. Prior: 1869 p 381 § 7; RRS § 9972.]

25.12.080 Suits by and against limited partnership—Parties. All actions, suits or proceedings respecting the business of such partnership shall be

prosecuted by and against the general partners only, except in those cases where special partners or partnerships are to be deemed general partners or partnerships, in which case all the partners deemed general partners may join therein; and excepting also those cases where special partners are severally liable on account of sums or amounts received or withdrawn from the capital stock as provided in RCW 25.12.070. [1955 c 15 § 25.12.080. Prior: 1869 p 381 § 8; RRS § 9973.]

25.12.090 Dissolution, how accomplished. No dissolution of a limited partnership shall take place except by operation of law, before the time specified in the certificate of partnership, unless a notice of such dissolution, subscribed by the general and special partners is filed with the original certificate of partnership or the certificate, if any, renewing or continuing such partnership nor unless a copy of such notice be published for the time and in the manner prescribed for the publication of the certificate of partnership. [1955 c 15 § 25.12.090. Prior: 1869 p 382 § 9; RRS § 9974.]

25.12.100 Liabilities and rights of members of firm. In all cases not otherwise provided for in this chapter, all the members of limited partnerships shall be subject to all the liabilities and entitled to all the rights of general partners. [1955 c 15 § 25.12.100. Prior: 1869 p 382 § 10; RRS § 9975.]

Chapter 25.98 CONSTRUCTION

Sections

- 25.98.010 Continuation of existing law.
- 25.98.020 Title, chapter, section headings not part of law.
- 25.98.030 Invalidity of part of title not to affect remainder.
- 25.98.040 Repeals and saving—1955 c 15.
- 25.98.050 Emergency—1955 c 15.

25.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter and by RCW 25.08.310, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. [1955 c 15 § 25.98.010.]

25.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law. [1955 c 15 § 25.98.020.]

25.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected. [1955 c 15 § 25.98.030.]

25.98.040 Repeals and saving—1955 c 15. Chapter 92, Laws of 1945, and chapter 137, Laws of 1945, are each repealed but such repeal shall not be construed

as affecting any existing right acquired under the provisions of the statutes repealed, nor as affecting any proceeding instituted thereunder. [1955 c 15 § 25.98.040.]

25.98.050 Emergency—1955 c 15. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. [1955 c 15 § 25.98.050.]

TITLE 26

DOMESTIC RELATIONS

Chapters

- 26.04 Marriage.
- 26.09 Dissolution of marriage—Legal separation—Declarations concerning validity of marriage.
- 26.12 Family court.
- 26.16 Husband and wife—Rights and liabilities—Property.
- 26.20 Family desertion.
- 26.21 Uniform reciprocal enforcement of support act.
- 26.26 Uniform parentage act.
- 26.28 Infants.
- 26.30 Uniform minor student capacity to borrow act.
- 26.32 Adoption.
- 26.34 Interstate compact on placement of children.
- 26.36 Child agencies.
- 26.37 Protection of orphan, homeless, or neglected children.
- 26.40 Handicapped children.
- 26.44 Child abuse—Reports—Procedure.

Action against parent for wilful injury to property by minor child: RCW 4.24.190.

Child welfare services: Chapter 74.13 RCW.

Children, expectant mothers and adult retarded, care and placement agencies: Chapter 74.15 RCW.

Children's center for research and training in mental retardation: RCW 28B.20.410–28B.20.414.

Community property, descent and distribution, devise: RCW 11.02-.070, 11.04.015.

Contempts: Chapters 7.20, 9.23 RCW.

Enforcement of judgments: Title 6 RCW.

Evidence—Who are disqualified—Privileged communications: RCW 5.60.060.

Homesteads: Chapter 6.12 RCW.

Joint tenancies: Chapter 64.28 RCW.

Jurisdiction over Indians as to domestic relations and adoption: Chapter 37.12 RCW.

Personal exemptions: Chapter 6.16 RCW.

Probate law and procedure: Title 11 RCW.

Sex crimes: Chapter 9.79 RCW.

Shoplifting by minors, liability of parents, guardians: RCW 4.24.230.

Solicitation of minor for immoral purposes: RCW 71.06.010.

Special proceedings: Title 7 RCW.

Special rights of action: Chapter 4.24 RCW.

Survival of actions: Chapter 4.20 RCW.

Trial—Implied bias defined: RCW 4.44.180.

Veneral disease treatment and care for minors, consent, liability: RCW 70.24.110.

Wages due on death of employee—Payment to survivor under community property agreement: RCW 49.48.120.

Youth development and conservation corps: Chapter 43.51 RCW.

Chapter 26.04 MARRIAGE

Sections

- 26.04.010 Who may contract—Certain marriages void, exception.
- 26.04.020 Prohibited marriages—Spouse living—Consanguinity.
- 26.04.030 Prohibited marriages—Criminality, insanity, disease.
- 26.04.040 Solemnization prohibited, when.
- 26.04.050 Who may solemnize.
- 26.04.060 Marriage before unauthorized cleric—Effect.
- 26.04.070 Form of solemnization.
- 26.04.080 Marriage certificate—Contents.
- 26.04.090 Certificate for files of county auditor and state registrar of vital statistics—Forms.
- 26.04.100 Filing and recording—County auditor.
- 26.04.110 Penalty for failure to deliver certificates.
- 26.04.120 Marriage according to religious ritual.
- 26.04.130 Voidable marriages.
- 26.04.140 Marriage license.
- 26.04.150 Application for license—May be secured by mail—Execution and acknowledgment.
- 26.04.160 Application for license—Contents—Oath.
- 26.04.165 Additional marriage certificate form.
- 26.04.170 Waiting period—Inspection of applications.
- 26.04.180 License—Time limitations as to issuance and use.
- 26.04.190 Refusal of license—Appeal.
- 26.04.200 Penalty for violations—1939 c 204.
- 26.04.210 Affidavits required for issuance of license.
- 26.04.220 Retention of license by person solemnizing—Auditor's record.
- 26.04.230 Penalty for violation of marriage requirements.
- 26.04.240 Penalty for unlawful solemnization—Code 1881.
- 26.04.250 Penalty for unlawful solemnization—1909 c 249.

Interschool athletic and other extracurricular activities for students, discrimination because of marital status prohibited: RCW 28A.58.125.

Statute of frauds—Contracts, etc., void unless in writing: RCW 19.36.010.

Veterans and veterans' affairs—Free marriage and divorce certificates: RCW 73.04.120.

26.04.010 Who may contract—Certain marriages void, exception. Marriage is a civil contract which may be entered into by persons of the age of eighteen years, who are otherwise capable: *Provided*, That every marriage entered into in which either party shall not have attained the age of seventeen years shall be void except where this section has been waived by a superior court judge of the county in which one of the parties resides on a showing of necessity. [1973 1st ex.s. c 154 § 26; 1970 ex.s. c 17 § 2; 1963 c 230 § 1; Code 1881 § 2380; 1866 p 81 § 1; 1854 p 404 §§ 1, 5; RRS § 8437.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

26.04.020 Prohibited marriages—Spouse living—Consanguinity. Marriages in the following cases are prohibited:

(1) When either party thereto has a wife or husband living at the time of such marriage.

(2) When the parties thereto are nearer of kin to each other than second cousins, whether of the whole or half blood computing by the rules of the civil law.

(3) It shall be unlawful for any man to marry his father's sister, mother's sister, daughter, sister, son's daughter, daughter's daughter, brother's daughter or sister's daughter; it shall be unlawful for any woman to marry her father's brother, mother's brother, son, brother, son's son, daughter's son, brother's son or sister's son. [1927 c 189 § 1; Code 1881 § 949; 1866 p 81 § 2; 1854 p 96 § 115; RRS § 8438.]

Bigamy: RCW 9A.64.010.

Incest:—Penalties: RCW 9A.64.020.

26.04.030 Prohibited marriages—Criminality, insanity, disease. No marriage shall take place between two persons in which one or both, is a common drunkard, habitual criminal, imbecile, feeble-minded person, idiot or insane person, or person who has theretofore been afflicted with hereditary insanity, or who is afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, shall hereafter intermarry or marry any other person within this state unless it is established that procreation is not possible by the couple intending to marry. [1973 1st ex.s. c 154 § 27; 1959 c 149 § 1; 1909 ex.s. c 16 § 1; 1909 c 174 § 1; RRS § 8439.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Affidavits required for issuance of license: RCW 26.04.210.

Penalty for violation of marriage requirements: RCW 26.04.230.

26.04.040 Solemnization prohibited, when. No clergyman or other officer authorized by law to solemnize marriages within this state shall hereafter knowingly perform a marriage ceremony uniting persons in matrimony either of whom is an imbecile, feeble-minded person, common drunkard, idiot, insane person, or person who has theretofore been afflicted with hereditary insanity, habitual criminal, or person afflicted with pulmonary tuberculosis in its advanced stages, or any contagious venereal disease, unless it is established that procreation is not possible by the couple intending to marry. [1973 1st ex.s. c 154 § 28; 1959 c 149 § 2; 1909 ex.s. c 16 § 2; 1909 c 174 § 2; RRS § 8440.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Affidavits required for issuance of license: RCW 26.04.210.

Penalty for violation of marriage requirements: RCW 26.04.230.

26.04.050 Who may solemnize. The following named officers and persons are hereby authorized to solemnize marriages, to wit: Justices of the supreme court, judges of the court of appeals, judges of the superior courts, any regularly licensed or ordained minister or any priest of any church or religious denomination anywhere within the state, and justices of the peace within their respective counties. [1971 c 81 § 69; 1913 c 35 § 1; 1890 p 98 § 1; 1883 p 43 § 1; Code 1881 § 2382; 1866 p 82 § 4; 1854 p 404 § 4; RRS § 8441.]

26.04.060 Marriage before unauthorized cleric—Effect. A marriage solemnized before any person professing to be a minister or a priest of any religious denomination in this state or professing to be an authorized officer thereof, is not void, nor shall the validity thereof be in any way affected on account of any want of power or authority in such person, if such marriage be consummated with a belief on the part of the persons so married, or either of them, that they have been lawfully joined in marriage. [1975-'76 2nd ex.s. c 42 § 25; Code 1881 § 2388; 1866 p 83 §§ 10 and 11; 1854 p 405 § 6; RRS § 8442. Formerly RCW 26.04.060 and 26.24.200.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900–26.26.905.

26.04.070 Form of solemnization. In the solemnization of marriage no particular form is required, except that the parties thereto shall assent or declare in the presence of the minister, priest, or judicial officer solemnizing the same, and in the presence of at least two attending witnesses, that they take each other to be husband and wife. [Code 1881 § 2383; 1866 p 82 § 5; RRS § 8443.]

26.04.080 Marriage certificate—Contents. The person solemnizing a marriage shall give to each of the parties thereto, if required, a certificate thereof, specifying therein the names and residence of the parties, and of at least two witnesses present, the time and place of such marriage, and the date of the license thereof, and by whom issued. [Code 1881 § 2384; 1866 p 82 § 6; RRS § 8444.]

26.04.090 Certificate for files of county auditor and state registrar of vital statistics—Forms. A person solemnizing a marriage shall, within thirty days thereafter, make and deliver to the county auditor of the county wherein the license was issued a certificate for the files of the county auditor, and a certificate for the files of the state registrar of vital statistics. The certificate for the files of the county auditor shall be substantially as follows:

STATE OF WASHINGTON }
COUNTY OF _____ }

This is to certify that the undersigned, a _____, by authority of a license bearing date the _____ day of _____ A.D., 19___, and issued by the County auditor of the county of _____, did, on the _____ day of _____ A.D., 19___, at _____ in this county and state, join in lawful wedlock A.B. of the county of _____, state of _____ and C.D. of the county of _____, state of _____, with their mutual assent, in the presence of F H and E G , witnesses.

In Testimony Whereof, witness the signatures of the parties to said ceremony, the witnesses and myself, this _____ day of _____, A.D., 19___.

The certificate for the files of the state registrar of vital statistics shall be in accordance with RCW 70.58-.200. The certificate forms for the files of the county

auditor and for the files of the state registrar of vital statistics shall be provided by the state registrar of vital statistics. [1967 c 26 § 4; 1947 c 59 § 1; 1927 c 172 § 1; Code 1881 § 2385; 1866 p 82 § 7; 1854 p 405 § 7; RRS § 8445.]

26.04.100 Filing and recording—County auditor. The county auditor shall file said certificates and record them or bind them into numbered volumes, and note on the original index to the license issued the volume and page wherein such certificate is recorded or bound. He shall enter the date of filing and his name on the certificates for the files of the state registrar of vital statistics, and transmit, by the tenth day of each month, all such certificates filed with him during the preceding month. [1967 c 26 § 5; 1947 c 59 § 2; 1886 p 66 § 1; Code 1881 § 2386; 1867 p 105 § 2; 1866 p 82 § 8; Rem. Supp. 1947 § 8446.]

26.04.110 Penalty for failure to deliver certificates. Any person solemnizing a marriage, who shall wilfully refuse or neglect to make and deliver to the county auditor for record, the certificates mentioned in RCW 26.04.090, within the time in such section specified, shall be deemed guilty of a misdemeanor, and upon conviction shall pay for such refusal, or neglect, a fine of not less than twenty-five nor more than three hundred dollars. [1967 c 26 § 6; 1947 c 59 § 3; 1886 p 66 § 2; Code 1881 § 2387; 1866 p 83 § 9; Rem. Supp. 1947 § 8447.]

26.04.120 Marriage according to religious ritual. All marriages to which there are no legal impediments, solemnized before or in any religious organization or congregation, according to the established ritual or form commonly practiced therein, are valid, and a certificate containing the particulars specified in RCW 26.04.080 and 26.04.090, shall be made and filed for record by the person or persons presiding or officiating in or recording the proceedings of such religious organization or congregation, in the manner and with like effect as in ordinary cases. [Code 1881 § 2389; RRS § 8448.]

26.04.130 Voidable marriages. When either party to a marriage shall be incapable of consenting thereto, for want of legal age or a sufficient understanding, or when the consent of either party shall be obtained by force or fraud, such marriage is voidable, but only at the suit of the party laboring under the disability, or upon whom the force or fraud is imposed. [Code 1881 § 2381; 1866 p 81 § 3; RRS § 8449.]

26.04.140 Marriage license. Before any persons can be joined in marriage, they shall procure a license from a county auditor, as in RCW 26.04.150 through 26.04.190 provided, authorizing any person or religious organization or congregation to join together the persons therein named as husband and wife. [1939 c 204 § 2; RRS § 8450-1. Prior: Code 1881 § 2390; 1866 p 83 § 12.]

26.04.150 Application for license—May be secured by mail—Execution and acknowledgment. Any person

may secure by mail from the county auditor of the county in the state of Washington where he intends to be married, an application, and execute and acknowledge said application before a notary public. [1963 c 230 § 2; 1939 c 204 § 3; RRS § 8450-2.]

26.04.160 Application for license—Contents—Oath. Application for such marriage license must be made and filed with the appropriate county auditor upon blanks to be provided by the county auditor for that purpose at least three full days before the license shall be issued, which application shall be under the oath of each of the applicants, and each application shall state the name, address at the time of execution of application, age, color, occupation, birthplace, whether single, widowed or divorced, and whether under control of a guardian, residence during the past six months, together with the name and address of at least one competent witness who can testify that the residence given by the applicant is bona fide: *Provided*, That each county may require such other and further information on said application as it shall deem necessary. [1967 c 26 § 7; 1939 c 204 § 4; RRS § 8450-3.]

26.04.165 Additional marriage certificate form. In addition to the application provided for in RCW 26.04.160, the county auditor for the county wherein the license is issued shall submit to each applicant at the time for application for a license the Washington state department of health marriage certificate form prescribed by RCW 70.58.200 to be completed by the applicants and returned to the county auditor for the files of the state registrar of vital statistics: *Provided*, That after the execution of the application for, and the issuance of a license, no county shall require the persons authorized to solemnize marriages to obtain any further information from the persons to be married except the names and county of residence of the persons to be married. [1969 ex.s. c 279 § 1.]

26.04.170 Waiting period—Inspection of applications. Any such application shall be open to public inspection as a part of the records of the office of such county auditor, and all applications which have been filed within three days shall be kept separately, and readily accessible to public examination. [1939 c 204 § 5; RRS § 8450-4.]

26.04.180 License—Time limitations as to issuance and use. The county auditor shall issue no license until the third full day following the filing of the application, exclusive of the date of filing. A marriage license issued pursuant to the provisions of this chapter shall become void if the marriage is not solemnized within thirty days of the date of the issuance of the license. [1963 c 230 § 3; 1953 c 107 § 1. Prior: 1943 c 250 § 1; 1939 c 204 § 6; Rem. Supp. 1943 § 8450-5.]

26.04.190 Refusal of license—Appeal. Any county auditor is hereby authorized to refuse to issue a license to marry if, in his discretion, the applications executed by the parties or information coming to his knowledge as

a result of the execution of said applications, justifies said refusal: *Provided, however,* The denied parties may appeal to the superior court of said county for an order to show cause, directed to said county auditor to appear before said court to show why said court should not grant an order to issue a license to said denied parties and, after due hearing, or if the auditor fails to appear, said court may in its discretion, issue an order to said auditor directing him to issue said license; any hearings held by a superior court under RCW 26.04.140 through 26.04.200 may, in the discretion of said court, be held in chambers. [1939 c 204 § 7; RRS § 8450-6.]

26.04.200 Penalty for violations—1939 c 204. Any person intentionally violating any provision of RCW 26.04.140 through 26.04.190 shall be guilty of a misdemeanor. [1939 c 204 § 8; RRS § 8450-7.]

Punishment of misdemeanor when not fixed by statute: RCW 9.92.030.

26.04.210 Affidavits required for issuance of license. The county auditor, before a marriage license is issued, upon the payment of a license fee as fixed in RCW 36.18.010 shall require each applicant therefor to make and file in his office upon blanks to be provided by the county for that purpose, an affidavit showing that such applicant is not feeble-minded, an imbecile, insane, a common drunkard, or afflicted with pulmonary tuberculosis in its advanced stages: *Provided,* That in addition, the affidavits of both applicants they are for such marriage license shall show that they are not afflicted with any contagious venereal disease. He shall also require an affidavit of some disinterested credible person showing that neither of said persons is an habitual criminal, and that the applicants are the age of eighteen years or over: *Provided, further,* That if the consent in writing is obtained of the father, mother, or legal guardian of the person for whom the license is required, the license may be granted in cases where the female has attained the age of seventeen years or the male has attained the age of seventeen years. Such affidavit may be subscribed and sworn to before any person authorized to administer oaths. Anyone knowingly swearing falsely to any of the statements contained in the affidavits mentioned in this section shall be deemed guilty of perjury and punished as provided by the laws of the state of Washington. [1973 1st ex.s. c 154 § 29; 1970 ex.s. c 17 § 5; 1963 c 230 § 4; 1959 c 149 § 3; 1909 ex.s. c 16 § 3; 1909 c 174 § 3; Code 1881 §§ 2391, 2392; 1867 p 104 § 1; 1866 p 83 §§ 13, 14; RRS § 8451.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Auditor's fee for issuing marriage license (including affidavits, returns and indexing): RCW 36.18.010.

Penalty for violation of marriage requirements: RCW 26.04.230.

Prohibited marriages—Criminality, insanity, disease: RCW 26.04.030.

Solemnization prohibited: RCW 26.04.040.

26.04.220 Retention of license by person solemnizing—Auditor's record. The person solemnizing the marriage is authorized to retain in his possession the license, but the county auditor who issues the same,

before delivering it, shall enter in his marriage record a memorandum of the names of the parties, the consent of the parents or guardian, if any, and the name of the affiant and the substance of the affidavit upon which said license issued, and the date of such license. [Code 1881 § 2393; 1866 p 84 § 15; RRS § 8453.]

26.04.230 Penalty for violation of marriage requirements. Any person knowingly violating any of the provisions of *this act shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars, or by imprisonment in the state penitentiary for a period of not more than three years, or by both such fine and imprisonment. [1909 ex.s. c 16 § 4; 1909 c 174 § 4; Code 1881 § 2394; 1866 p 84 § 16; RRS § 8452.]

***Reviser's note:** "this act" is codified as RCW 26.04.030, 26.04.040, 26.04.210, and 26.04.230.

26.04.240 Penalty for unlawful solemnization—Code 1881. Any person who shall undertake to join others in marriage knowing that he is not lawfully authorized so to do, or any person authorized to solemnize marriage, who shall join persons in marriage contrary to the provisions of *this chapter, shall, upon conviction thereof, be punished by a fine of not more than five hundred, nor less than one hundred dollars. [Code 1881 § 2395; 1866 p 84 § 17; RRS § 8454. FORMER PART OF SECTION: 1909 c 249 § 419; RRS § 2671 now codified as RCW 26.04.250.]

***Reviser's note:** "this chapter" (chapter 182, Code 1881) is codified as RCW 26.04.010, 26.04.050 through 26.04.140 and 26.04.220 through 26.04.240. Code 1881 §§ 2391 and 2392, being part of chapter 182, Code 1881, appear to be superseded by 1909 ex.s. c 16 § 3 (RCW 26.04.210) which is subject to the penalties of RCW 26.04.230.

26.04.250 Penalty for unlawful solemnization—1909 c 249. Every person who shall solemnize a marriage when either party thereto is known to him to be under the age of legal consent, or to be an idiot, insane person, habitual criminal or common drunkard, or a marriage to which, within his knowledge, any legal impediment exists, shall be guilty of a gross misdemeanor. [1909 c 249 § 419; RRS § 2671. Formerly RCW 26.04.240, part.]

Punishment of gross misdemeanor when not fixed by statute: RCW 9.92.020.

Chapter 26.09

DISSOLUTION OF MARRIAGE—LEGAL SEPARATION—DECLARATIONS CONCERNING VALIDITY OF MARRIAGE

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16, 1973.

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.]

26.09.020 Petition in proceeding for dissolution of marriage, legal separation, or for a declaration concerning validity of marriage—Contents—Parties. (1) A petition in a proceeding for dissolution of marriage, legal separation, or for a declaration concerning the validity of a marriage, shall allege the following:

(a) The last known residence of each party;

(b) The date and place of the marriage;

(c) If the parties are separated the date on which the separation occurred;

(d) The names, ages, and addresses of any child dependent upon either or both spouses and whether the wife is pregnant;

(e) Any arrangements as to the custody, visitation and support of the children and the maintenance of a spouse;

(f) A statement specifying whether there is community or separate property owned by the parties to be disposed of;

(g) The relief sought.

(2) Either or both parties to the marriage may initiate the proceeding. [1973 2nd ex.s. c 23 § 1; 1973 1st ex.s. c 157 § 2.]

26.09.030 Petition for dissolution of marriage—Court proceedings, findings—Transfer to family court—Legal separation in lieu of dissolution. When a party who is a resident of this state or who is a member of the armed forces and is stationed in this state, petitions for a dissolution of marriage, and alleges that the marriage is irretrievably broken and when ninety days have elapsed since the petition was filed and from the date when service of summons was made upon the respondent or the first publication of summons was made, the court shall proceed as follows:

(1) If the other party joins in the petition or does not deny that the marriage is irretrievably broken, the court shall enter a decree of dissolution.

(2) If the other party alleges that the petitioner was induced to file the petition by fraud, or coercion, the court shall make a finding as to that allegation and, if it so finds shall dismiss the petition.

(3) If the other party denies that the marriage is irretrievably broken the court shall consider all relevant factors, including the circumstances that gave rise to the filing of the petition and the prospects for reconciliation and shall:

(a) Make a finding that the marriage is irretrievably broken and enter a decree of dissolution of the marriage; or

(b) At the request of either party or on its own motion, transfer the cause to the family court, refer

them to another counseling service of their choice, and request a report back from the counseling service within sixty days, or continue the matter for not more than sixty days for hearing. If the cause is returned from the family court or at the adjourned hearing, the court shall:

(i) Find that the parties have agreed to reconciliation and dismiss the petition; or

(ii) Find that the parties have not been reconciled, and that either party continues to allege that the marriage is irretrievably broken. When such facts are found, the court shall enter a decree of dissolution of the marriage.

(4) If the petitioner requests the court to decree legal separation in lieu of dissolution, the court shall enter the decree in that form unless the other party objects and petitions for a decree of dissolution or declaration of invalidity. [1973 1st ex.s. c 157 § 3.]

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.]

26.09.050 Provisions for child support, custody and visitation—Maintenance—Disposition of property and liabilities. In entering a decree of dissolution of marriage, legal separation, or declaration of invalidity, the court shall consider, approve, or make provision for child custody and visitation, the support of any child of the marriage entitled to support, the maintenance of either spouse, and the disposition of property and liabilities of the parties. [1973 1st ex.s. c 157 § 5.]

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.]

26.09.070 Separation contracts. (1) The parties to a marriage, in order to promote the amicable settlement of disputes attendant upon their separation or upon the filing of a petition for dissolution of their marriage, a decree of legal separation, or declaration of invalidity of their marriage, may enter into a written separation contract providing for the maintenance of either of them, the disposition of any property owned by both or either of them, the custody, support, and visitation of their children and for the release of each other from all obligation except that expressed in the contract.

(2) If the parties to such contract elect to live separate and apart without any court decree, they may record such contract and cause notice thereof to be published in a legal newspaper of the county wherein the parties resided prior to their separation. Recording such contract and publishing notice of the making thereof shall constitute notice to all persons of such separation and of the facts contained in the recorded document.

(3) If either or both of the parties to a separation contract shall at the time of the execution thereof, or at a subsequent time, petition the court for dissolution of their marriage, for a decree of legal separation, or for a declaration of invalidity of their marriage, the contract, except for those terms providing for the custody, support, and visitation of children, shall be binding upon the court unless it finds, after considering the economic circumstances of the parties and any other relevant evidence produced by the parties on their own motion or on request of the court, that the separation contract was unfair at the time of its execution.

(4) If the court in an action for dissolution of marriage, legal separation, or declaration of invalidity finds that the separation contract was unfair at the time of its execution, it may make orders for the maintenance of either party, the disposition of their property and the discharge of their obligations.

(5) Unless the separation contract provides to the contrary, the agreement shall be set forth in the decree of dissolution, legal separation, or declaration of invalidity, or filed in the action or made an exhibit and incorporated by reference, except that in all cases the terms

for custody, support, and visitation shall be set out in the decree, and the parties shall be ordered to comply with its terms.

(6) Terms of the contract set forth or incorporated by reference in the decree may be enforced by all remedies available for the enforcement of a judgment, including contempt, and are enforceable as contract terms.

(7) When the separation contract so provides, the decree may expressly preclude or limit modification of any provision for maintenance set forth in the decree. Terms of a separation contract pertaining to custody, support, and visitation of children and, in the absence of express provision to the contrary, terms providing for maintenance set forth or incorporated by reference in the decree are automatically modified by modification of the decree.

(8) If at any time the parties to the separation contract by mutual agreement elect to terminate the separation contract they may do so without formality unless the contract was recorded as in subsection (2) of this section, in which case a statement should be filed terminating the contract. [1973 1st ex.s. c 157 § 7.]

26.09.080 Disposition of property and liabilities—
Factors. In a proceeding for dissolution of the marriage, legal separation, declaration of invalidity, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall, without regard to marital misconduct, make such disposition of the property and the liabilities of the parties, either community or separate, as shall appear just and equitable after considering all relevant factors including, but not limited to:

(1) The nature and extent of the community property;

(2) The nature and extent of the separate property;

(3) The duration of the marriage; and

(4) The economic circumstances of each spouse at the time the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to a spouse having custody of any children. [1973 1st ex.s. c 157 § 8.]

26.09.090 Maintenance orders for either spouse—
Factors. (1) In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, or in a proceeding for maintenance following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse. The maintenance order shall be in such amounts and for such periods of time as the court deems just, without regard to marital misconduct, after considering all relevant factors including but not limited to:

(a) The financial resources of the party seeking maintenance, including separate or community property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find employment appropriate to his skill, interests, style of life, and other attendant circumstances;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, physical and emotional condition, and financial obligations of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs and financial obligations while meeting those of the spouse seeking maintenance. [1973 1st ex.s. c 157 § 9.]

26.09.100 Child support—Apportionment of expense. In a proceeding for dissolution of marriage, legal separation, declaration of invalidity, maintenance, or child support, after considering all relevant factors but without regard to marital misconduct, the court may order either or both parents owing a duty of support to any child of the marriage dependent upon either or both spouses to pay an amount reasonable or necessary for his support. [1973 1st ex.s. c 157 § 10.]

26.09.110 Minor or dependent child—Court appointed attorney to represent—Payment of costs, fees and disbursements. The court may appoint an attorney to represent the interests of a minor or dependent child with respect to his custody, support, and visitation. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney. The order shall be made against either or both parents, except that, if both parties are indigent, the costs, fees, and disbursements shall be borne by the county. [1973 1st ex.s. c 157 § 11.]

26.09.120 Support or maintenance payments—To whom paid—Arrearages. (1) The court may, upon its own motion or upon motion of either party, order support or maintenance payments to be made to:

(a) The person entitled to receive the payments; or

(b) The department of social and health services pursuant to chapters 74.20 and 74.20A RCW; or

(c) The clerk of court as trustee for remittance to the person entitled to receive the payments.

(2) If payments are made to the clerk of court:

(a) The clerk shall maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order; and

(b) The parties affected by the order shall inform the clerk of the court of any change of address or of other conditions that may affect the administration of the order; and

(c) The clerk of the court shall, if the party fails to make required payment, send by first class mail notice of the arrearage to the obligor. If payment of the sum due is not made to the clerk of the court within ten days after sending notice, the clerk of the court shall certify the amount due to the prosecuting attorney. [1973 1st ex.s. c 157 § 12.]

26.09.130 Support or maintenance payments—Order to make assignment of periodic earnings or trust income—Duty of payor to withhold and transmit. The court may order the person obligated to pay support or maintenance to make an assignment of a part of his periodic earnings or trust income to the person or agency entitled to receive the payments: *Provided*, That the provisions of RCW 7.33.280 in regard to exemptions in garnishment proceedings shall apply to such assignments. The assignment is binding on the employer, trustee or other payor of the funds two weeks after service upon him of notice that it has been made. The payor shall withhold from the earnings or trust income payable to the person obligated to support the amount specified in the assignment and shall transmit the payments to the person specified in the order. The payor may deduct from each payment a sum not exceeding one dollar as reimbursement for costs. An employer shall not discharge or otherwise discipline an employee as a result of a wage or salary assignment authorized by this section. [1973 1st ex.s. c 157 § 13.]

26.09.140 Payment of costs, attorney's fees, etc. The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for reasonable attorney's fees or other professional fees in connection therewith, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or enforcement or modification proceedings after entry of judgment.

Upon any appeal, the appellate court may, in its discretion, order a party to pay for the cost to the other party of maintaining the appeal and attorney's fees in addition to statutory costs.

The court may order that the attorney's fees be paid directly to the attorney who may enforce the order in his name. [1973 1st ex.s. c 157 § 14.]

26.09.150 Decree of dissolution of marriage, legal separation, or declaration of invalidity—Finality—Appeal—Conversion of decree of legal separation to decree of dissolution—Name of wife. A decree of dissolution of marriage, legal separation, or declaration of invalidity is final when entered, subject to the right of appeal. An appeal which does not challenge the finding that the marriage is irretrievably broken or was invalid, does not delay the finality of the dissolution or declaration of invalidity and either party may remarry pending such an appeal.

No earlier than six months after entry of a decree of legal separation, on motion of either party, the court shall convert the decree of legal separation to a decree of dissolution of marriage. The clerk of court shall complete the certificate as provided for in RCW 70.58.200 on the form provided by the department of social and health services. On or before the tenth day of each month, the clerk of the court shall forward to the state registrar of vital statistics the certificate of each decree of divorce, dissolution of marriage, annulment, or separate maintenance granted during the preceding month.

Upon request by a wife whose marriage is dissolved or declared invalid, the court shall order a former name restored and may, on motion of either party, for just and reasonable cause, order the wife to assume a name other than that of the husband. [1973 1st ex.s. c 157 § 15.]

26.09.160 Failure to comply with decree or temporary injunction—Obligation to make support or maintenance payments or permit visitation not suspended—Motion. If a party fails to comply with a provision of a decree or temporary order of injunction, the obligation of the other party to make payments for support or maintenance or to permit visitation is not suspended, but he may move the court to grant an appropriate order. [1973 1st ex.s. c 157 § 16.]

26.09.170 Modification of decree for maintenance or support, property disposition—Termination of maintenance obligation and child support—Grounds. Except as otherwise provided in subsection (7) of RCW 26.09.070, the provisions of any decree respecting maintenance or support may be modified only as to installments accruing subsequent to the motion for modification and only upon a showing of a substantial change of circumstances. The provisions as to property disposition may not be revoked or modified, unless the court finds the existence of conditions that justify the reopening of a judgment under the laws of this state.

Unless otherwise agreed in writing or expressly provided in the decree the obligation to pay future maintenance is terminated upon the death of either party or the remarriage of the party receiving maintenance.

Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child are terminated by emancipation of the child or by the death of the parent obligated to support the child. [1973 1st ex.s. c 157 § 17.]

26.09.180 Child custody proceeding—Commencement—Notice—Intervention. (1) A child custody proceeding is commenced in the superior court:

(a) By a parent:

(i) By filing a petition for dissolution of marriage, legal separation or declaration of invalidity; or

(ii) By filing a petition seeking custody of the child in the county where the child is permanently resident or where he is found; or

(b) By a person other than a parent, by filing a petition seeking custody of the child in the county where the child is permanently resident or where he is found, but only if the child is not in the physical custody of one of its parents or if the petitioner alleges that neither parent is a suitable custodian.

(2) Notice of a child custody proceeding shall be given to the child's parent, guardian and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties. [1973 1st ex.s. c 157 § 18.]

26.09.190 Child custody—Relevant factors in awarding custody. The court shall determine custody in

accordance with the best interests of the child. The court shall consider all relevant factors including:

(1) The wishes of the child's parent or parents as to his custody and as to visitation privileges;

(2) The wishes of the child as to his custodian and as to visitation privileges;

(3) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(4) The child's adjustment to his home, school, and community; and

(5) The mental and physical health of all individuals involved.

The court shall not consider conduct of a proposed guardian that does not affect the welfare of the child. [1973 1st ex.s. c 157 § 19.]

26.09.200 Child custody—Temporary custody order—Vacation of order. A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in RCW 26.09.270. The court may award temporary custody after a hearing, or, if there is no objection, solely on the basis of the affidavits.

If a proceeding for dissolution of marriage, legal separation, or declaration of invalidity is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.

If a custody proceeding commenced in the absence of a petition for dissolution of marriage, legal separation, or declaration of invalidity, (subsection (1) of RCW 26.09.180) is dismissed, any temporary order is vacated. [1973 1st ex.s. c 157 § 20.]

26.09.210 Child custody—Interview with child by court—Advice of professional personnel. The court may interview the child in chambers to ascertain the child's wishes as to his custodian and as to visitation privileges. The court may permit counsel to be present at the interview. The court shall cause a record of the interview to be made and to be made part of the record in the case.

The court may seek the advice of professional personnel whether or not they are employed on a regular basis by the court. The advice given shall be in writing and shall be made available by the court to counsel upon request. Counsel may call for cross-examination any professional personnel consulted by the court. [1973 1st ex.s. c 157 § 21.]

26.09.220 Child custody—Investigation and report.

(1) In contested custody proceedings, and in other custody proceedings if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodian arrangements for the child. The investigation and report may be made by the staff of the

juvenile court or other professional social service organization experienced in counseling children and families.

(2) In preparing his report concerning a child, the investigator may consult any person who may have information about the child and his potential custodian arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if he has reached the age of twelve, unless the court finds that he lacks mental capacity to consent. If the requirements of subsection (3) of this section are fulfilled, the investigator's report may be received in evidence at the hearing.

(3) The court shall mail the investigator's report to counsel and to any party not represented by counsel at least ten days prior to the hearing unless a shorter time is ordered by the court for good cause shown. The investigator shall make available to counsel and to any party not represented by counsel the investigator's file of underlying data and reports, complete texts of diagnostic reports made to the investigator pursuant to the provisions of subsection (2) of this section, and the names and addresses of all persons whom the investigator has consulted. Any party to the proceeding may call the investigator and any person whom he has consulted for cross-examination. A party may not waive his right of cross-examination prior to the hearing. [1973 1st ex.s. c 157 § 22.]

26.09.230 Child custody—Priority status of proceedings—Hearing—Record—Expenses of witnesses. Custody proceedings shall receive priority in being set for hearing.

Either party may petition the court to authorize the payment of necessary travel and other expenses incurred by any witness whose presence at the hearing the court deems necessary to determine the best interests of the child.

The court without a jury shall determine questions of law and fact. If it finds that a public hearing may be detrimental to the child's best interests, the court may exclude the public from a custody hearing, but may admit any person who has a direct and legitimate interest in the work of the court.

If the court finds it necessary to protect the child's welfare that the record of any interview, report, investigation, or testimony in a custody proceeding be kept secret, the court may make an appropriate order sealing the record. [1973 1st ex.s. c 157 § 23.]

26.09.240 Child custody—Visitation rights. A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger the child's physical, mental, or emotional health. The court may order visitation rights for any person when visitation may serve the best interest of the child.

The court may modify an order granting or denying visitation rights whenever modification would serve the

best interests of the child but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger the child's physical, mental, or emotional health. [1973 1st ex.s. c 157 § 24.]

26.09.250 Child custody—Powers and duties of custodian—Supervision by appropriate agency when necessary. Except as otherwise agreed by the parties in writing at the time of the custody decree, the custodian may determine the child's upbringing, including his education, health care, and religious training, unless the court after hearing, finds, upon motion by the noncustodial parent, that in the absence of a specific limitation of the custodian's authority, the child's physical, mental, or emotional health would be endangered.

If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical, mental, or emotional health would be endangered, the court may order an appropriate agency which regularly deals with children to exercise continuing supervision over the case to assure that the custodial or visitation terms of the decree are carried out. Such order may be modified by the court at any time upon petition by either party. [1973 1st ex.s. c 157 § 25.]

26.09.260 Child custody decree—Modification. (1) The court shall not modify a prior custody decree unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of the prior decree, that a change has occurred in the circumstances of the child or his custodian and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custodian established by the prior decree unless:

- (a) The custodian agrees to the modification;
- (b) The child has been integrated into the family of the petitioner with the consent of the custodian; or
- (c) The child's present environment is detrimental to his physical, mental, or emotional health and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

(2) If the court finds that a motion to modify a prior custody order has been brought in bad faith, the court shall assess the attorney's fees and court costs of the custodian against the petitioner. [1973 1st ex.s. c 157 § 26.]

26.09.270 Child custody—Temporary custody order or modification of custody decree—Affidavits required. A party seeking a temporary custody order or modification of a custody decree shall submit together with his motion, an affidavit setting forth facts supporting the requested order or modification and shall give notice, together with a copy of his affidavit, to other parties to the proceedings, who may file opposing affidavits. The court shall deny the motion unless it finds that adequate cause for hearing the motion is established by the affidavits, in which case it shall set a date for hearing on an order to show cause why the requested order or modification should not be granted. [1973 1st ex.s. c 157 § 27.]

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.]

26.09.290 Final decree of divorce nunc pro tunc. Whenever either of the parties in a divorce action is, under the law, entitled to a final judgment, but by mistake, negligence, or inadvertence the same has not been signed, filed, or entered, if no appeal has been taken from the interlocutory order or motion for a new trial made, the court, on the motion of either party thereto or upon its own motion, may cause a final judgment to be signed, dated, filed, and entered therein granting the divorce as of the date when the same could have been given or made by the court if applied for. The court may cause such final judgment to be signed, dated, filed, and entered nunc pro tunc as aforesaid, even though a final judgment may have been previously entered where by mistake, negligence or inadvertence the same has not been signed, filed, or entered as soon as such final judgment, the parties to such action shall be deemed to have been restored to the status of single persons as of the date affixed to such judgment, and any marriage of either of such parties subsequent to six months after the granting of the interlocutory order as shown by the minutes of the court, and after the final judgment could have been entered under the law if applied for, shall be valid for all purposes as of the date affixed to such final judgment, upon the filing thereof. [1973 1st ex.s. c 157 § 29.]

26.09.300 Restraining orders—Notice—Refusal to comply—Penalty—Defense. (1) Any person having had actual notice of the existence of a restraining order issued by a court of competent jurisdiction in an action for the dissolution of a marriage under this chapter who refuses to comply with the provisions of such order when requested by any peace officer of the state shall be guilty of a misdemeanor.

(2) The notice requirements of subsection (1) may be satisfied by the peace officer giving oral or written evidence to the person subject to the order by reading from or handing to that person a copy certified to be an accurate copy of the original on file by a notary public or the clerk of the court of the court order which copy may be supplied by the court, the complainant or the complainant's attorney.

(3) The remedies provided by this section shall not apply unless restraining orders subject to this section shall bear the legend: VIOLATION OF THIS ORDER WITH ACTUAL NOTICE OF ITS TERMS IS A

CRIMINAL OFFENSE UNDER CHAPTER 26.09 RCW AND IS ALSO SUBJECT TO CIVIL CONTEMPT PROCEEDINGS.

(4) It is a defense to prosecution under subsection (1) of this section that the court order was issued contrary to law or court rule: *Provided*, That no right of action shall accrue against any peace officer acting upon a properly certified copy of a court order lawful on its face if such officer employs otherwise lawful means to effect the arrest. [1974 ex.s. c 99 § 1.]

26.09.900 Construction—Pending divorce actions. Notwithstanding the repeals of prior laws enumerated in section 30, chapter 157, Laws of 1973 1st ex. sess., actions for divorce which were properly and validly pending in the superior courts of this state as of the effective date of such repealer (July 15, 1973) shall be governed and may be pursued to conclusion under the provisions of law applicable thereto at the time of commencement of such action and all decrees and orders heretofore or hereafter in all other respects regularly entered in such proceedings are declared valid: *Provided*, That upon proper cause being shown at any time before final decree, the court may convert such action to an action for dissolution of marriage as provided for in RCW 26.09.901. [1974 ex.s. c 15 § 1.]

26.09.901 Conversion of pending action to dissolution proceeding. Any divorce action which was filed prior to July 15, 1973 and for which a final decree has not been entered on February 11, 1974, may, upon order of the superior court having jurisdiction over such proceeding for good cause shown, be converted to a dissolution proceeding and thereafter be continued under the provisions of this chapter. [1974 ex.s. c 15 § 2.]

26.09.902 RCW 26.09.900 and 26.09.901 deemed in effect on July 16, 1973. The provisions of RCW 26.09.900 and 26.09.901 are remedial and procedural and shall be construed to have been in effect as of July 16, 1973. [1974 ex.s. c 15 § 3.]

**Chapter 26.12
FAMILY COURT**

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Dissolution of marriage, legal separation, declarations concerning validity of marriage: Chapter 26.09 RCW.

26.12.010 Jurisdiction conferred on superior court. Each superior court shall exercise the jurisdiction conferred by this chapter and while sitting in the exercise of such jurisdiction shall be known and referred to as the "family court." [1949 c 50 § 1; Rem. Supp. 1949 § 997-30.]

26.12.020 Designation of judge—Number of sessions. In counties having more than one judge of the superior court the judges of such court shall annually, in the month of January, designate one or more of their number to hear all cases under this chapter. The judge or judges so designated shall hold as many sessions of the family court in each week as are necessary for the prompt disposition of matters before the court. [1949 c 50 § 2; Rem. Supp. 1949 § 997-31.]

26.12.030 Transfer of cases to presiding judge. The judge of the family court may transfer any case before the family court pursuant to this chapter to the department of the presiding judge of the superior court for assignment for trial or other proceedings by another judge of the court, whenever in the opinion of the judge of the family court such transfer is necessary to expedite the business of the family court or to insure the prompt consideration of the case. When any case is so transferred, the judge to whom it is transferred shall act as the judge of the family court in the matter. [1949 c 50 § 3; Rem. Supp. 1949 § 997-32.]

26.12.040 Substitute judge of family court. In counties having more than one judge of the superior court the presiding judge may appoint a judge other than the judge of the family court to act as judge of the family court during any period when the judge of the family court is on vacation, absent, or for any reason unable to perform his duties. Any judge so appointed shall have all the powers and authority of a judge of the family court in cases under this chapter. [1949 c 50 § 4; Rem. Supp. 1949 § 997-33.]

26.12.050 Appointment of assistants in class A and first through ninth class counties. In class "A" counties and counties of the first through ninth classes, the superior court may appoint the following persons to assist the family court in disposing of its business: *Provided*, That in counties of the third through ninth class, such positions may not be created without prior consent of the county commissioners:

- (1) One or more competent persons to act as family court commissioners, and
- (2) Such investigators, stenographers and clerks as the court shall find necessary to carry on the work of the family court.

The appointments provided for in this section shall be made by majority vote of the judges of the superior court of the county and may be made in addition to all other appointments of commissioners and other judicial attaches otherwise authorized by law. Family court commissioners and investigators shall serve at the pleasure of the judges appointing them and shall receive such compensation as the county commissioners shall determine. [1965 ex.s. c 83 § 1; 1949 c 50 § 5; Rem. Supp. 1949 § 997-34.]

Court clerks, reporters and bailiffs: Chapter 2.32 RCW.

Court commissioners and referees: Chapter 2.24 RCW.

Powers of first class counties apply to class A and class AA counties: RCW 36.13.090.

26.12.060 Family court commissioners—Duties. The family court commissioners shall: (1) Receive all applications and complaints filed in the family court for the purpose of disposing of them pursuant to this chapter; (2) investigate the facts upon which to base warrants, subpoenas, orders or directions in actions or proceedings filed in or transferred to the family court pursuant to this chapter; (3) for the purpose of this chapter, exercise all the powers and perform all the duties of regular court commissioners; (4) hold conciliation conferences with parties to and hearings in proceedings under this chapter and make written reports of all proceedings had which shall become a part of the record of the family court; (5) provide such supervision in connection with the exercise of its jurisdiction as the judge of the family court may order; (6) cause the orders and findings of the family court to be entered in the same manner as orders and findings are entered in cases in the superior court; and (7) cause such other reports to be made and records kept as will indicate the value and extent of such conciliation service. [1949 c 50 § 6; Rem. Supp. 1949 § 997-35.]

26.12.070 Probation officers—Powers and duties. The probation officer in every county shall give such assistance to the family court as may be requested to carry out the purposes of this chapter and to that end the probation officer shall, upon request, make investigations and reports as requested, and in cases pursuant to this chapter shall exercise all the powers and perform all the duties granted or imposed by the laws of this state relating to probation or to probation officers. [1949 c 50 § 7; Rem. Supp. 1949 § 997-36.]

Prison terms, paroles, probation: Chapter 9.95 RCW.

Probation officers—Appointment—Powers—Compensation: RCW 13.04.040.

26.12.080 Protection of privacy of parties. Whenever any judge before whom any matter arising under this chapter is pending, deems publication of any matter before the court contrary to public policy or injurious to the interests of children or to the public morals, he may by order close the files or any part thereof in the matter and make such other orders to protect the privacy of the parties as is necessary. [1949 c 50 § 8; Rem. Supp. 1949 § 997-37.]

26.12.090 Jurisdiction of family court. Whenever any controversy exists between spouses which may result in the dissolution or annulment of the marriage or the disruption of the household, and there is any minor child of the spouses or of either of them whose welfare might be affected thereby, the family court shall have jurisdiction over the controversy and over the parties thereto and all persons having any relation to the controversy as provided in this chapter. [1949 c 50 § 9; Rem. Supp. 1949 § 997-38.]

26.12.100 Petition invoking jurisdiction or for transfer of action to family court. Prior to the filing of any action for divorce, annulment or separate maintenance, either spouse or both spouses may file in the family court a petition invoking the jurisdiction of the court for the purpose of preserving the marriage by effecting a reconciliation between the parties or for amicable settlement of the controversy between the spouses so as to avoid further litigation over the issue involved. In any case where an action for divorce, annulment or separate maintenance shall have been filed, either party thereto may by petition filed therein have the cause transferred to the family court for proceedings in the same manner as though action had been instituted in the family court in the first instance. [1949 c 50 § 10; Rem. Supp. 1949 § 997-39.]

26.12.110 Form of petition generally. The petition shall contain: The title of the proceeding, specifying the name of the court, which shall be in substantially the following language, "In the Superior Court of the State of Washington, for ----- County, In Family Court;" the name of the parties to the proceeding, petitioner and respondent; a plain and concise statement of the facts of the controversy and a prayer for the relief sought. [1949 c 50 § 11; Rem. Supp. 1949 § 997-40.]

26.12.120 Allegations of petition. The petition shall:

- (1) Briefly allege that a controversy exists between the spouses and request the aid of the family court to effect a reconciliation or an amicable settlement of the controversy;
- (2) state the name and age of each minor child whose welfare may be affected by the controversy;
- (3) state the name and address of the petitioner or petitioners;
- (4) if the petition is presented by one spouse only, name the other spouse as respondent and state the address of that spouse;
- (5) name any other person who has any relation to the controversy and state the address of the person if known to the petitioner; and
- (6) state such other information as the court may by rule require. [1949 c 50 § 12; Rem. Supp. 1949 § 997-41.]

26.12.130 Forms to be provided—Assistance in preparing. The clerk of the superior court shall provide at the expense of the county blank forms for petitions for filing pursuant to this chapter. Probation officers of the county and the attaches and employees of the family

court shall assist any person in the preparation and presentation of any such petition when requested. All public officers in each county shall refer to the family court all petitions and complaints made to them with respect to controversies within the jurisdiction of the family court. [1949 c 50 § 13; Rem. Supp. 1949 § 997-42.]

26.12.140 Fees not to be charged. No fee shall be charged by the county clerk for filing the petition. [1971 ex.s. c 151 § 1; 1949 c 50 § 14; Rem. Supp. 1949 § 997-43.]

26.12.150 Hearing—Time and place of—Notice—Citations. The court shall fix a reasonable time and place for hearing on the petition and shall cause notice of the filing of the petition and of the time and place of the hearing as it deems necessary to be given the respondent. The court may issue a citation to any respondent, requiring him to appear at the time and place stated in the citation and require the attendance of witnesses as in other civil cases. [1949 c 50 § 15; Rem. Supp. 1949 § 997-44.]

26.12.160 When and where court may be convened. For the purpose of conducting hearings pursuant to this chapter the family court may be convened at any time and place within the county and the hearing may be had in chambers or otherwise. [1949 c 50 § 16; Rem. Supp. 1949 § 997-45.]

26.12.170 Conduct of hearing. The hearing shall be conducted informally as a conference or series of conferences to effect the reconciliation of the spouses or an amicable adjustment or settlement of the issues of the controversy. To facilitate and promote the purposes of this chapter, the court may order or recommend the aid of physicians, psychiatrists, or other specialists or the pastor or director of any religious denomination to which the parties may belong. Such aid, however, shall be at the expense of the parties involved and shall not be at the expense of the court or of the county unless the board of county commissioners shall specifically authorize such aid. [1971 ex.s. c 151 § 2; 1949 c 50 § 17; Rem. Supp. 1949 § 997-46.]

26.12.180 Orders—Duration of effectiveness. At or after hearing, the court may make such orders in respect to the conduct of the spouses and the subject matter of the controversy as the court deems necessary to preserve the marriage or to implement the reconciliation of the spouses, but in no event shall such orders be effective for more than thirty days from the filing of the petition, unless the parties mutually consent to an extension of such time. [1949 c 50 § 18; Rem. Supp. 1949 § 997-47.]

26.12.190 Divorce, annulment, etc., action stayed—Jurisdiction as to pending actions—Post-divorce problems—Retention of jurisdiction. During the period of thirty days after filing a petition for conciliation no action for divorce, annulment or separate maintenance shall be filed by either spouse and further proceedings in an action then pending in the superior

court shall be stayed and the case transferred to the family court: *Provided*, The family court shall have full power in all pending cases to make, alter, modify and enforce all temporary orders, orders for custody of children, possession of property, attorneys' fees, suit money or costs as may appear just and equitable; if, after the expiration of such thirty day period or the formal conclusion of the proceedings for conciliation, the controversy between the spouses, in the meantime not having been terminated, either spouse may apply for divorce, annulment of marriage, or separate maintenance by filing in the clerk's office additional pleadings complying with the requirements relating to divorce, annulment of marriage, or separate maintenance, respectively, or by asking that the pending case be set for trial; and the family court shall have full jurisdiction to hear, try, and determine such action for divorce, annulment of marriage, or separate maintenance under the laws relating thereto, and to retain jurisdiction of the case for further hearings on decrees or orders to be made therein. The conciliation provisions of this chapter may be used in regard to post-divorce problems, concerning support, visitation, contempt, or for modification based on changed conditions, in the discretion of the family court.

The family court may retain jurisdiction in any proceedings for a longer period than thirty days upon good cause appearing therefor on its own motion for further conciliation or upon application of either of the spouses, but in no event shall retain jurisdiction more than ninety days without the written consent of both spouses filed with the court. Except as specifically so provided nothing in this chapter shall be construed to repeal, nullify or change the law and procedure relating to divorce, annulment or separate maintenance; and the family court shall, when application for relief is made under this chapter, apply such laws in the same manner as if the action had been brought thereunder in the superior court, save that the conciliation procedures of the family court shall be applied so far as appropriate to arrive at an amicable settlement of all issues in controversy. [1949 c 50 § 19; Rem. Supp. 1949 § 997-48.]

26.12.200 Transfer of certain actions when minor child involved. Whenever any action for divorce, annulment of marriage or separate maintenance is filed in the superior court and it appears to the court at any time during the pendency of the action that there is any minor child of the spouses or of either of them whose welfare may be affected by the dissolution or annulment of the marriage or the disruption of the household, the case may be transferred to the family court for proceedings for reconciliation of the spouses or amicable settlement of issues in controversy in accordance with the provisions of this chapter. [1949 c 50 § 20; Rem. Supp. 1949 § 997-49.]

26.12.210 Procedure in actions when no child is involved—Family court may accept case. Whenever application is made to the family court for conciliation proceedings in respect to a controversy between spouses or a contested action for divorce, annulment or separate maintenance, but there is no minor child whose welfare

might be affected by the results of the controversy, and it appears to the court upon recommendation of counsel or otherwise that reconciliation of the spouses or amicable adjustment of the controversy can probably be achieved, and that the work of the court in cases involving children will not be seriously impeded by acceptance of the case, the court may accept and dispose of the case in the same manner as similar cases involving the welfare of children are disposed of. In the event of such application and acceptance, the court shall have the same jurisdiction over the controversy and the parties thereto or having any relation thereto that it has under this chapter in similar cases involving the welfare of children. [1949 c 50 § 21; Rem. Supp. 1949 § 997-50.]

Chapter 26.16 HUSBAND AND WIFE—RIGHTS AND LIABILITIES—PROPERTY

Sections

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Mutual savings banks—Deposits of minors, in trust, of joint tenants: RCW 32.12.030.

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Unemployment compensation, benefits and claims: Chapter 50.20 RCW.

Welfare and relief: Title 74 RCW.

Workmen's compensation

actions at law for injury or death: Chapter 51.24 RCW.

compensation—Right to and amount: Chapter 51.32 RCW.

26.16.010 Separate property of husband. Property and pecuniary rights owned by the husband before marriage and that acquired by him afterwards by gift, bequest, devise or descent, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of his wife, and he may manage, lease, sell, convey, encumber or devise by will such property without the wife joining in such management, alienation or encumbrance, as fully and to the same effect as though he were unmarried. [Code 1881 § 2408; RRS § 6890. Prior: See Reviser's note below.]

Reviser's note: For prior laws dealing with this subject see Laws 1879 pp 77–81; 1873 pp 450–455; 1871 pp 67–74; 1869 pp 318–323.

Construction: "The rule of common law that statutes in derogation thereof are to be strictly construed has no application to this chapter. This chapter establishes the law of the state respecting the subject to which it relates, and its provisions and all proceedings under it shall be liberally construed with a view to effect its object." [Code 1881 § 2417.]

"This chapter shall not be construed to operate retrospectively and any right established, accrued or accruing or in any thing done prior to the time this chapter goes into effect shall be governed by the law in force at the time such right was established or accrued." [Code 1881 § 2418.] This applies to RCW 26.16.010–26.16.040, 26.16.060, 26.16.120, 26.16.140–26.16.160, and 26.16.180–26.16.210.

Descent of separate real property: RCW 11.04.015.

Distribution of separate personal estate: RCW 11.04.015.

Rights of married persons in general: RCW 26.16.150.

Veteran's bonus is separate property: RCW 73.32.180.

26.16.020 Separate property of wife. The property and pecuniary rights of every married woman at the time of her marriage or afterwards acquired by gift, devise or inheritance, with the rents, issues and profits thereof, shall not be subject to the debts or contracts of her husband, and she may manage, lease, sell, convey, encumber or devise by will such property to the same extent and in the same manner that her husband can, property belonging to him. [Code 1881 § 2400; RRS § 6891. Prior: See Reviser's note following RCW 26.16.010.]

Reviser's note: See notes following RCW 26.16.010.

Civil disabilities of wife abolished: RCW 26.16.160.

Earnings of wife and minor children living apart: RCW 26.16.140.

Exemption of personal property of married woman from attachment and execution upon liability of husband: RCW 6.16.070.

26.16.030 Community property defined—Management and control. Property not acquired or owned, as prescribed in RCW 26.16.010 and 26.16.020, acquired after marriage by either husband or wife or both, is community property. Either spouse, acting alone, may manage and control community property, with a like power of disposition as the acting spouse has over his or her separate property, except:

(1) Neither spouse shall devise or bequeath by will more than one-half of the community property.

(2) Neither spouse shall give community property without the express or implied consent of the other.

(3) Neither spouse shall sell, convey, or encumber the community real property without the other spouse joining in the execution of the deed or other instrument by which the real estate is sold, conveyed, or encumbered, and such deed or other instrument must be acknowledged by both spouses.

(4) Neither spouse shall purchase or contract to purchase community real property without the other spouse joining in the transaction of purchase or in the execution of the contract to purchase.

(5) Neither spouse shall create a security interest other than a purchase money security interest as defined in RCW 62A.9–107 in, or sell, community household goods, furnishings, or appliances unless the other spouse joins in executing the security agreement or bill of sale, if any.

(6) Neither spouse shall acquire, purchase, sell, convey, or encumber the assets, including real estate, or the good will of a business where both spouses participate in its management without the consent of the other: *Provided*, That where only one spouse participates in such management the participating spouse may, in the ordinary course of such business, acquire, purchase, sell, convey or encumber the assets, including real estate, or the good will of the business without the consent of the nonparticipating spouse. [1972 ex.s. c 108 § 3; Code 1881 § 2409; RRS § 6892.]

Community property—Homestead selection: RCW 6.12.020, 6.12.030.

Descent and distribution of community property: RCW 11.04.015.

Simultaneous death, uniform act: Chapter 11.05 RCW.

26.16.040 Community realty subject to liens, execution. Community real estate shall be subject to the liens of mechanics and others for labor and materials furnished in erecting structures and improvements thereon as provided by law in other cases, to liens of judgments recovered for community debts, and to sale on execution issued thereon. [1972 ex.s. c 108 § 4; Code 1881 § 2410; RRS § 6893.]

Acknowledgments: Chapter 64.08 RCW.

Liens: Title 60 RCW.

26.16.050 Conveyances between husband and wife. A husband may give, grant, sell or convey directly to his wife, and a wife may give, grant, sell or convey directly to her husband his or her community right, title, interest or estate in all or any portion of their community real property: And every deed made from husband to wife, or from wife to husband, shall operate to divest the real estate therein recited from any or every claim or demand as community property and shall vest the same in the grantee as separate property [. The] grantor in all such deeds, or the party releasing such community interest or estate shall sign, seal, execute and acknowledge the deed as a single person without the joinder therein of the married party therein named as grantee: *Provided, however*, That the conveyances or transfers hereby authorized shall not affect any existing equity in favor of creditors of the grantor at the time of such transfer, gift or conveyance. *And provided further*, That any deeds of gift conveyances or releases of community estate by or

between husband and wife heretofore made but in which the husband and wife have not joined as grantors, said deeds[,] where made in good faith and without intent to hinder, delay or defraud creditors[,] shall be and the same are hereby fully legalized as valid and binding. [1888 c 27 § 1; RRS § 10572.]

Validating—1888 c 27: "All powers of attorney heretofore made and executed by any married woman joined with her husband and duly acknowledged and certified and all powers of attorney heretofore made or executed by husband or wife to the other, authorizing the sale or other disposition of real estate, whether separate or community real estate duly acknowledged conformably with the previous sections, and all conveyances heretofore and hereafter executed under and by virtue of such powers of attorney and acknowledged and certified in the manner provided herein, shall be valid and binding; provided, that any rights vested in third persons shall not be affected by anything in this section contained." [1888 c 27 § 5.] This applies to RCW 26.16.050, 26.16.070–26.16.090.

Acknowledgments: Chapter 64.08 RCW.

Burden of proof in transactions between husband and wife: RCW 26.16.210.

26.16.060 Power of attorney between husband and wife. A husband or wife may constitute the other his or her attorney in fact to manage, control or dispose of his or her property with the same power of revocation or substitution as could be exercised were they unmarried persons. [Code 1881 § 2403; No RRS.]

26.16.070 Powers of attorney as to separate estate. A husband or wife may make and execute powers of attorney for the sale, conveyance, transfer or encumbrance of his or her separate estate both real and personal, without the other spouse joining in the execution thereof. Such power of attorney shall be acknowledged and certified in the manner provided by law for the conveyance of real estate. Nor shall anything herein contained be so construed as to prevent either husband or wife from appointing the other his or her attorney in fact for the purposes provided in this section. [1888 c 27 § 2; RRS § 10573.]

26.16.080 Execution of conveyance under power. Any conveyance, transfer, deed, lease or other encumbrances executed under and by virtue of such power of attorney shall be executed, acknowledged and certified in the same manner as if the person making such power of attorney had been unmarried. [1888 c 27 § 3; RRS § 10574.]

26.16.090 Powers of attorney as to community estate. A husband may make and execute a letter of attorney to the wife, or the wife may make and execute a letter of attorney to the husband authorizing the sale or other disposition of his or her community interest or estate in the community property and as such attorney in fact to sign the name of such husband or wife to any deed, conveyance, mortgage, lease or other encumbrance or to any instrument necessary to be executed by which the property conveyed or transferred shall be released from any claim as community property. And either said husband or said wife may make and execute a letter of attorney to any third person to join with the other in the conveyance of any interest either in separate real estate

of either, or in the community estate held by such husband or wife in any real property. And both husband and wife owning community property may jointly execute a power of attorney to a third person authorizing the sale, encumbrance or other disposition of community real property, and so execute the necessary conveyance or transfer of said real estate. [1888 c 27 § 4; RRS § 10575.]

26.16.095 Purchaser of community real property protected by record title. Whenever any person, married or single, having in his or her name the legal title of record to any real estate, shall sell or dispose of the same to an actual bona fide purchaser, a deed of such real estate from the person holding such legal record title to such actual bona fide purchaser shall be sufficient to convey to, and vest in, such purchaser the full legal and equitable title to such real estate free and clear of any and all claims of any and all persons whatsoever, not appearing of record in the auditor's office of the county in which such real estate is situated. [1891 c 151 § 1; RRS § 10577. Formerly RCW 64.04.080.] [SLC–RO–16]

Saving—1891 c 151: "In so far as this act affects married persons having already acquired and now holding real estate under existing laws, a period of three months from the date at which this act shall take effect is hereby allowed to such persons within which to comply with its provisions." [1891 c 151 § 4.] This applies to RCW 26.16.095 through 26.16.110.

26.16.100 Claim of spouse in community realty to be filed. A husband or wife having an interest in real estate, by virtue of the marriage relation, the legal title of record to which real estate is or shall be held by the other, may protect such interest from sale or disposition by the husband or wife, as the case may be, in whose name the legal title is held, by causing to be filed and recorded in the auditor's office of the county in which such real estate is situated an instrument in writing setting forth that the person filing such instrument is the husband or wife, as the case may be, of the person holding the legal title to the real estate in question, describing such real estate and the claimant's interest therein; and when thus presented for record such instrument shall be filed and recorded by the auditor of the county in which such real estate is situated, in the same manner and with like effect as regards notice to all the world, as deeds of real estate are filed and recorded. And if either husband or wife fails to cause such an instrument to be filed in the auditor's office in the county in which real estate is situated, the legal title to which is held by the other, within a period of ninety days from the date when such legal title has been made a matter of record, any actual bona fide purchaser of such real estate from the person in whose name the legal title stands of record, receiving a deed of such real estate from the person thus holding the legal title, shall be deemed and held to have received the full legal and equitable title to such real estate free and clear of all claim of the other spouse. [1891 c 151 § 2; RRS § 10578.] [SLC–RO–16]

Recording of real property by county auditor: Chapters 65.04 and 65.08 RCW.

26.16.110 Cloud on title—Removal. The instrument in writing provided for in RCW 26.16.100 shall be deemed to be a cloud upon the title of said real estate, and may be removed by the release of the party filing the same, or by any court having jurisdiction in the county where said real estate is situated, whenever it shall appear to said court that the real estate described in said instrument is the separate property of the person in whose name the title to the said real estate, or any part thereof, appears to be vested, from the conveyances on record in the office of the auditor of the county where said real estate is situated. [1891 c 151 § 3; RRS § 10579.]

26.16.120 Agreements as to status. Nothing contained in any of the provisions of *this chapter or in any law of this state, shall prevent the husband and wife from jointly entering into any agreement concerning the status or disposition of the whole or any portion of the community property, then owned by them or afterwards to be acquired, to take effect upon the death of either. But such agreement may be made at any time by the husband and wife by the execution of an instrument in writing under their hands and seals, and to be witnessed, acknowledged and certified in the same manner as deeds to real estate are required to be, under the laws of the state, and the same may at any time thereafter be altered or amended in the same manner: *Provided, however,* That such agreement shall not derogate from the right of creditors, nor be construed to curtail the powers of the superior court to set aside or cancel such agreement for fraud or under some other recognized head of equity jurisdiction, at the suit of either party. [Code 1881 § 2416; RRS § 6894.]

*Reviser's note: "this chapter", being Code 1881, chapter CLXXXIII, is codified as RCW 26.16.010 through 26.16.040, 26.16.060, 26.16.120, 26.16.140–26.16.160, and 26.16.180–26.16.210.

Acknowledgments: Chapter 64.08 RCW.

Certain provisions of community property agreements deemed nontestamentary: RCW 11.02.090.

Descent and distribution of community property: RCW 11.04.015.

Private seals abolished: RCW 64.04.090.

26.16.125 Custody of children. Henceforth the rights and responsibilities of the parents in the absence of misconduct shall be equal, and the mother shall be as fully entitled to the custody, control and earnings of the children as the father, and in case of the father's death, the mother shall come into as full and complete control of the children and their estate as the father does in case of the mother's death. [Code 1881 § 2399; 1879 p 151 § 2; RRS § 6907. Formerly RCW 26.20.020.]

Earnings of wife and minor child living apart: RCW 26.16.140.

26.16.140 Earnings and accumulations of husband and wife living apart, minor children. When a husband and wife are living separate and apart, their respective earnings and accumulations shall be the separate property of each. The earnings and accumulations of minor children shall be the separate property of the spouse who has their custody or, if no custody award has been made, then the separate property of the spouse with whom said

children are living. [1972 ex.s. c 108 § 5; Code 1881 § 2413; RRS § 6896.]

26.16.150 Rights of married persons in general. Every married person shall hereafter have the same right and liberty to acquire, hold, enjoy and dispose of every species of property, and to sue and be sued, as if he or she were unmarried. [Code 1881 § 2396; RRS § 6900.]

Separate property of husband: RCW 26.16.010.

Separate property of wife: RCW 26.16.020.

26.16.160 Civil disabilities of wife abolished. All laws which impose or recognize civil disabilities upon a wife, which are not imposed or recognized as existing as to the husband, are hereby abolished, and for any unjust usurpation of her natural or property rights, she shall have the same right to appeal in her own individual name, to the courts of law or equity for redress and protection that the husband has: *Provided, always,* That nothing in *this chapter shall be construed to confer upon the wife any right to vote or hold office, except as otherwise provided by law. [Code 1881 § 2398; 1879 p 151 § 1; RRS § 6901.]

*Reviser's note: "this chapter", see note following RCW 26.16.120.

26.16.180 Husband and wife may sue each other. Should either husband or wife obtain possession or control of property belonging to the other, either before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried. [Code 1881 § 2401; 1879 p 80 § 28; 1873 p 452 § 8; RRS § 6903.]

Privileged communications: RCW 5.60.060.

26.16.190 Liability for acts of other spouse. For all injuries committed by a married person, there shall be no recovery against the separate property of the other spouse except in cases where there would be joint responsibility if the marriage did not exist. [1972 ex.s. c 108 § 6; Code 1881 § 2402; RRS § 6904.]

26.16.200 Antenuptial and separate debts, liability for. Neither husband or wife is liable for the debts or liabilities of the other incurred before marriage, nor for the separate debts of each other, nor is the rent or income of the separate property of either liable for the separate debts of the other: *Provided,* That the earnings and accumulations of the husband shall be available to the legal process of creditors for the satisfaction of debts incurred by him prior to marriage, and the earnings and accumulations of the wife shall be available to the legal process of creditors for the satisfaction of debts incurred by her prior to marriage. For the purpose of this section neither the husband nor the wife shall be construed to have any interest in the earnings of the other: *Provided further,* That no separate debt may be the basis of a claim against the earnings and accumulations of either a husband or wife unless the same is reduced to judgment within three years of the marriage of the parties. [1969

ex.s. c 121 § 1; Code 1881 § 2405; 1873 p 452 § 10; RRS § 6905.]

26.16.205 Liability for family support. The expenses of the family and the education of the children, including stepchildren, are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately: *Provided*, That with regard to stepchildren, the obligation shall cease upon the termination of the relationship of husband and wife. [1969 ex.s. c 207 § 1; Code 1881 § 2407; RRS § 6906. Formerly RCW 26.20.010.]

26.16.210 Burden of proof in transactions between husband and wife. In every case, where any question arises as to the good faith of any transaction between husband and wife, whether a transaction between them directly or by intervention of third person or persons, the burden of proof shall be upon the party asserting the good faith. [Code 1881 § 2397; RRS § 5828.]

Chapter 26.20 FAMILY DESERTION

Sections

26.20.030	Desertion or nonsupport—Penalty.
26.20.040	Jurisdiction of justices of the peace.
26.20.050	Alternative remedies to enforce support—Procedure on failure to comply with order.
26.20.071	Evidence—Spouse as witness.
26.20.080	Proof of wilfulness—Application of penalty provisions.

Filiation proceedings: Chapter 26.24 RCW.

Uniform reciprocal enforcement of support act: Chapter 26.21 RCW.

26.20.030 Desertion or nonsupport—Penalty. (1) Every person who:

(a) Has a child dependent upon him or her for care, education or support and deserts such child in any manner whatever with intent to abandon it; or

(b) Wilfully omits, without lawful excuse, to furnish necessary food, clothing, shelter, or medical attendance for his or her child or stepchild or children or stepchildren or ward or wards: *Provided*, That with regard to stepchildren the obligation shall cease upon termination of the relationship of husband and wife; or

(c) Has sufficient ability to provide for support of such person's spouse or is able to earn the means for such person's spouse support and wilfully abandons and leaves such person's spouse in a destitute condition; or who refuses or neglects to provide such person's spouse with necessary food, clothing, shelter, or medical attendance, unless the abandonment is justified by misconduct of the abandoned spouse, shall be guilty of the crime of family desertion or nonsupport.

(2) When children are involved under the age of sixteen years, such act shall be a felony and punished by imprisonment in the state penitentiary for not more than twenty years or by imprisonment in the county jail for not more than one year or by fine of not more than one thousand dollars or by both fine and imprisonment.

(3) When there is no child under sixteen years, such act shall be a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than one

year or by fine of not more than one thousand dollars, or by both fine and imprisonment. [1973 1st ex.s. c 154 § 34; 1969 ex.s. c 207 § 2; 1955 c 249 § 1; 1953 c 255 § 1; 1943 c 158 § 1; 1913 c 28 § 1; Rem. Supp. 1943 § 6908. Prior: 1907 c 103 § 1, part.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Contributing to delinquency—Penalty—Bond: RCW 13.04.170.

Leaving children unattended in parked automobile: RCW 9.91.060.

26.20.040 Jurisdiction of justices of the peace. Every justice of the peace and magistrate shall have concurrent jurisdiction with the superior court of the state of Washington of all gross misdemeanors under provisions of RCW 26.20.030. [1943 c 158 § 2; Rem. Supp. 1943 § 6908-1.]

26.20.050 Alternative remedies to enforce support—Procedure on failure to comply with order. In any case enumerated in RCW 26.20.030 as now or hereafter amended, the court may render one of the following orders:

(1) Should a fine be imposed it may be directed by the court to be paid in whole or in part to the appropriate spouse, or to the guardian, or to the custodian of the child or children, or to an individual appointed by the court as trustee.

(2) The court in its discretion having regard to the circumstances and to the financial ability or earning capacity of the defendant, shall have the power, either before or after trial, conviction, or sentence, to make an order, with the consent of the defendant, which shall be subject to change by it from time to time as circumstances may require, directing the defendant to pay a certain sum weekly during such time as the court may direct, to the spouse or to the guardian, or custodian of the minor child or children, or to an individual appointed by the court, and to release the defendant from custody or probation during such time as the court may direct, upon his or her entering into a recognizance, with or without sureties, in such sum as the court may direct. The condition of the recognizance to be such that if the defendant shall make his or her appearance in court whenever ordered to do so, and shall further comply with the terms of the order and of any subsequent modification thereof, then the recognizance shall be void, otherwise to remain in full force and effect.

If the court be satisfied that at any time the defendant has violated the terms of such order, it may forthwith proceed with the trial of the defendant under the original indictment, information or complaint, or sentence, or under the original conviction, or enforce the original sentence as the case may be, in addition to declaring a forfeiture of the defendant's recognizance. In case of forfeiture of a recognizance and enforcement thereof by execution, the sum recovered may, in the discretion of the court, be paid in whole or in part to the spouse or to the guardian or custodian of the minor child or children upon such terms or conditions as may to the court be just and proper.

(3) Where conviction is had and sentence to imprisonment in the county jail is imposed, the court may

direct that the person so convicted shall be compelled to work upon the public roads or highways or any other public work, in the county where such conviction is had, during the time of such sentence. And it shall be the duty of the legislative authority of the county where such conviction and sentence is had, and where such work is performed by persons under sentence to the county jail, to allow and order the payment, out of the current fund, to the spouse, or to the guardian, or the custodian of the child or children, or to an individual appointed by the court as trustee, at the end of each calendar month, for the support of such spouse, child, or children, ward or wards, a sum not to exceed one and fifty one-hundredths dollars for each day's work of such person.

(4) Whenever, during the pendency of such proceedings, it shall appear to the court that any moneys are due the defendant from any person, firm, or corporation, or that any person, firm, or corporation has funds or property of the defendant in his or its possession, the court may, upon application of the prosecuting attorney, enter an order requiring such person, firm, or corporation, to appear and answer, under oath, as to such moneys or property and if it appear at such hearing that such moneys or property should be applied to the support of said defendant's family, the court may enter judgment against the said person, firm, or corporation for the amount he or it was indebted to said defendant at the time of service of said order. If it appears that said person, firm, or corporation is not indebted to the defendant but at the time of service of said order upon it or at the time of judgment he or it has or had personal effects of the defendant in his or its possession, the court may make an order requiring said person, firm, or corporation to deliver up to the sheriff or director of public safety on demand such personal property or effects or so much as may be required for the support of the defendant's said family or dependents and said property and effects shall thereupon be sold by the sheriff or director of public safety as other chattels on execution and the proceeds of said sale applied to the support of the said dependents of said defendant. The provisions of this subdivision shall be ancillary to and may be invoked in addition to the remedies provided in subdivisions (1), (2) and (3) of this section. [1973 1st ex.s. c 154 § 35; 1927 c 297 § 1; 1913 c 28 § 2; RRS § 6909. Prior: 1907 c 103 § 1, part. Formerly RCW 26.20.050 and 26.20.060, part.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

26.20.071 Evidence—**Spouse as witness.** In any proceedings relating to nonsupport or family desertion the laws attaching a privilege against the disclosure of communications between husband and wife shall be inapplicable and both husband and wife in such proceedings shall be competent witnesses to testify to any relevant matter, including marriage and parentage. [1963 c 10 § 1.]

Uniform criminal extradition act: Chapter 10.88 RCW.

Uniform reciprocal enforcement of support act—Spouse as witness: RCW 26.21.170.

26.20.080 Proof of wilfulness—**Application of penalty provisions.** Proof of the abandonment or nonsupport of a spouse, or the desertion of a child or children, ward or wards, or the omission to furnish necessary food, clothing, shelter, or medical attendance for a child or children, ward or wards, is prima facie evidence that such abandonment or nonsupport, or omission to furnish food, clothing, shelter, or medical attendance is wilful. The provisions of RCW 26.20.030 as now or hereafter amended are applicable whether the parents of such child or children are married or divorced and regardless of any decree made in said divorce action relative to alimony or to the support of the spouse or child or children. [1973 1st ex.s. c 154 § 36; 1913 c 28 § 3; RRS § 6910. Formerly RCW 26.20.080 and 26.20.090.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Chapter 26.21 UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT

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Family support, desertion, enforcement of support—Intrastate provisions: Chapter 26.20 RCW.

Filiation proceedings—Intrastate provisions: Chapter 26.24 RCW.

26.21.010 Definitions. As used in this chapter unless the context requires otherwise:

(1) "State" includes any state, territory or possession of the United States and the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law or procedure is in effect.

(2) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(3) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

(4) "Court" means the superior court of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

(5) "Law" includes both common and statute law.

(6) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, separate maintenance or otherwise.

(7) "Obligor" means any person owing a duty of support.

(8) "Obligee" means any person to whom a duty of support is owed and a state or political subdivision thereof.

(9) "Governor" includes any person performing the functions of governor or the executive authority of any territory covered by the provisions of this chapter.

(10) "Support order" means any judgment, decree or order of support whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered.

(11) "Rendering state" means any state in which a support order is originally entered.

(12) "Registering court" means any court of this state in which the support order of the rendering state is registered.

(13) "Register" means to file in the registry of foreign support orders as required by the court.

(14) "Certification" shall be in accordance with the laws of the certifying state. [1972 ex.s. c 31 § 1; 1963 c 45 § 1; 1951 c 196 § 2.]

26.21.020 Remedies are additional. The remedies herein provided are in addition to and not in substitution for any other remedies. [1951 c 196 § 3.]

26.21.030 Residence, presence of obligee not material. Duties of support arising under the law of this state,

when applicable under RCW 26.21.060, bind the obligor, present in this state, regardless of the presence or residence of the obligee. [1963 c 45 § 2; 1951 c 196 § 4.]

26.21.040 Extradition or surrender of obligor. The governor of this state (1) may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state and (2) may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of any person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state. [1963 c 45 § 3; 1951 c 196 § 5.]

Extradition, and fresh pursuit: Chapter 10.88 RCW.

Uniform act on fresh pursuit: Chapter 10.89 RCW.

26.21.050 Extradition or surrender of obligor—Conditions. (1) Before making the demand of the governor of any other state for the surrender of a person charged in this state with the crime of failing to provide for the support of any person, the governor of this state may require any prosecuting attorney of this state to satisfy him that at least sixty days prior thereto the obligee brought an action for support under this chapter, or that the bringing of an action would be of no avail.

(2) When under this or a substantially similar act, a demand is made upon the governor of this state by the governor of another state for the surrender of a person charged in the other state with the crime of failing to provide support, the governor may call upon any prosecuting attorney to investigate or assist in investigating the demand, and to report to him whether any action for support has been brought under this chapter or would be effective: *Provided*, That before honoring such demand the governor shall require proof of a duty of support arising from a support order based upon competent jurisdiction over the obligor.

(3) Except as is provided for in the proviso to subsection (2) of this section if an action for support would be effective and no action has been brought, the governor may delay honoring the demand for a reasonable time to permit prosecution of an action for support.

(4) If an action for support has been brought and the person demanded has prevailed in that action, the governor shall decline to honor the demand.

(5) If an action for support has been brought and pursuant thereto the person demanded is subject to a support order, the governor shall decline to honor the demand so long as the person demanded is complying with the support order. [1971 ex.s. c 46 § 30; 1963 c 45 § 4; 1951 c 196 § 6.]

Severability—Effective date—1971 ex.s. c 46: See RCW 10.88-.920, 10.88.930.

26.21.060 Duty to support—Which law applies—Presumption of presence in responding state. Duties of support applicable under this law are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown. [1963 c 45 § 5; 1951 c 196 § 7.]

26.21.070 Subrogation by state or political subdivision for support furnished obligee—Continuing support. Whenever the state or a political subdivision thereof furnishes support to an obligee it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purposes of securing reimbursement of expenditures so made and of obtaining continuing support. [1963 c 45 § 6; 1951 c 196 § 8.]

26.21.080 Support and arrearages enforceable by action—Jurisdiction. All duties of support, including arrearages are enforceable by action irrespective of the relationship between the obligor and the obligee. Jurisdiction of all proceedings hereunder shall be vested in the superior court. [1963 c 45 § 7; 1951 c 196 § 9.]

26.21.090 Petition—Contents. The petition shall be verified and shall state the name and, so far as known to the petitioner, the address and circumstances of the respondent and his dependents for whom support is sought and all other pertinent information. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent, such as a photograph of the respondent, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, or social security number. [1963 c 45 § 8; 1951 c 196 § 10.]

26.21.092 Duty of prosecuting attorney to represent petitioner. The prosecuting attorney, upon the request of the court, shall represent the petitioner in any proceeding under this chapter. [1963 c 45 § 9.]

26.21.094 Petition on behalf of minor obligee. A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem. [1963 c 45 § 10.]

26.21.100 Findings of court—Certificate—Transmittal. If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or his property, it shall so certify and shall cause three copies of (1) the petition, (2) its certificate and (3) this chapter to be

transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state. [1963 c 45 § 11; 1951 c 196 § 11.]

26.21.102 Responsibility for filing fees and court costs. There shall be no filing fee or other costs taxable to the obligee but a court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both petitioner and respondent or either, be paid by the obligor. [1963 c 45 § 12.]

26.21.104 Jurisdiction by arrest. When the court of this state, acting either as an initiating or responding state, has reason to believe that the respondent may flee the jurisdiction it may (1) as an initiating state request in its certificate that the court of the responding state obtain the body of the respondent by appropriate process if that be permissible under the law of the responding state, or (2) as a responding state, obtain the body of the respondent by appropriate process. [1963 c 45 § 13.]

26.21.106 Powers and duties of attorney general—Information agency. The attorney general is hereby designated as the state information agency under this chapter, and he shall (1) compile a list of the courts and their addresses in this state having jurisdiction under this chapter and transmit the same to the state information agency of every other state which has adopted this or a substantially similar act, and (2) maintain a register of such lists received from other states and transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this chapter.

The attorney general shall appoint as information agent an assistant attorney general who shall represent the attorney general in the administration of this chapter.

The attorney general may, upon notice to the prosecuting attorney and order of the court, represent the petitioner in any proceeding arising under this chapter which involves a petition received from another state. [1963 c 45 § 14.]

26.21.110 Duties of court, responding—Duties of prosecuting attorney. (1) After the court of this state, acting as a responding state has received from the court of the initiating state the aforesaid copies, the clerk of the court shall docket the cause and notify the prosecuting attorney of his action. (2) It shall be the duty of the prosecuting attorney diligently to prosecute the case. He shall take all action necessary in accordance with the laws of this state to give the court jurisdiction of the respondent or his property and shall request the court to

set a time and place for a hearing. [1963 c 45 § 15; 1951 c 196 § 12.]

Depositions: Title 5 RCW, also Rules of court: CR 26-37.

26.21.112 Duty of prosecuting attorney to locate respondent or his property—Forwarding of documents when respondent in other jurisdiction—Notice to initiating court. (1) The prosecuting attorney shall, on his own initiative, use all means at his disposal to trace the respondent or his property and if, due to inaccuracies of the petition or otherwise, the court cannot obtain jurisdiction, the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the court in the initiating state. (2) If the respondent or his property is not found in the county and the prosecuting attorney discovers by any means that the respondent or his property may be found in another county of this state or in another state he shall so inform the court and thereupon the clerk of the court shall forward the documents received from the court in the initiating state to the court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that he forward the documents to the proper court. Thereupon both the court of the other county and any court of this state receiving the documents and the prosecuting attorney have the same powers and duties under this act as if the documents had been originally addressed to them. When the clerk of a court of this state retransmits documents to another court, he shall notify forthwith the court from which the documents came. (3) If the prosecuting attorney has no information as to the whereabouts of the obligor or his property he shall so inform the initiating court. [1963 c 45 § 16.]

26.21.114 Proceedings to accord type of support claimed. The court shall conduct proceedings under this chapter in the manner prescribed by law for an action for enforcement of the type of duty of support claimed. [1963 c 45 § 17.]

26.21.116 Continuance when petitioner absent from responding state. If the petitioner is absent from the responding state and the respondent presents evidence which constitutes a defense, the court shall continue the case for further hearing and the submission of evidence by both parties. [1963 c 45 § 18.]

26.21.120 Order to support—Enforcement against property—Enforcement in counties other than where order issued. If the court of the responding state finds a duty of support, it may order the respondent to furnish support or reimbursement therefor and subject the property of the respondent to such order. The court and prosecuting attorney of any county where the obligor is present or has property have the same powers and duties to enforce the order as have those of the county where it was first issued. If enforcement is impossible or cannot be completed in the county where the order was issued, the prosecuting attorney shall transmit a certified copy

of the order to the prosecuting attorney of any county where it appears that procedures to enforce payment of the amount due would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order. [1963 c 45 § 19; 1951 c 196 § 13.]

26.21.130 Orders—Transmittal to initiating state. The court of this state when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor. [1963 c 45 § 20; 1951 c 196 § 14.]

26.21.140 Orders—Enforcement—Particular powers. In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the respondent to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(1) To require the respondent to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the respondent;

(2) To require the respondent to make payments at specified intervals to the clerk of the court and to report personally to such clerk at such times as may be deemed necessary;

(3) To punish the respondent who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court. [1963 c 45 § 21; 1951 c 196 § 15.]

Bail and appearance bonds: Chapter 10.19 RCW.

Contempts: Chapters 7.20, 9.23 RCW.

Powers of courts and general provisions: Chapter 2.28 RCW.

Suretyship: Chapters 19.72, 48.28 RCW.

26.21.150 Payments—Transmittal—Statement. The court of this state when acting as a responding state shall have the following duties which may be carried out through the clerk of the court:

(1) Upon the receipt of a payment made by the respondent pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

(2) Upon request to furnish to the court of the initiating state a certified statement of all payments made by the respondent. [1963 c 45 § 22; 1951 c 196 § 16.]

26.21.160 Payments—Receipt—Disbursement. The court of this state when acting as an initiating state shall have the duty which may be carried out through the clerk of the court to receive and disburse forthwith all payments made by the respondent or transmitted by the court of the responding state. [1963 c 45 § 23; 1951 c 196 § 17.]

26.21.170 Evidence—Spouse as witness. Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to

proceedings under this chapter. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage. [1963 c 45 § 24; 1951 c 196 § 18.]

Family desertion—Spouse as witness: RCW 26.20.071.

Privileged communications: RCW 5.60.060.

26.21.180 Proceedings not stayed by actions for divorce, separate maintenance, etc. No proceeding under this chapter shall be stayed because of the existence of a pending action for divorce, separate maintenance, annulment, dissolution, habeas corpus or custody proceeding. [1963 c 45 § 25.]

26.21.190 Multiple orders of support—Effect—Application of payments. No order of support issued by a court of this state when acting as a responding state shall supersede any other order of support but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both. [1963 c 45 § 26.]

26.21.200 Jurisdiction as to other proceedings not conferred. Participation in any proceeding under this chapter shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding. [1963 c 45 § 27.]

26.21.210 Intercounty proceedings. This chapter is applicable when both the petitioner and the respondent are in this state but in different counties. If the court of the county in which this petition is filed finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and finds that a court of another county in this state may obtain jurisdiction of the respondent or his property, the clerk of the court shall send three copies of the petition and a certification of the findings to the court of the county in which the respondent or his property is found. The clerk of the court of the county receiving these copies shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the county to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the state as a responding state. [1963 c 45 § 28.]

26.21.220 Foreign support order, additional remedies of obligee—Duty of prosecuting attorney. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections and the prosecuting attorney shall, pursuant to the provisions of RCW 26.21.092, represent the petitioner upon the request of the court in asserting the remedies provided for therein. [1963 c 45 § 29.]

26.21.230 Foreign support order, additional remedies of obligee—Registration of order. The obligee may register the foreign support order in a court of this state in the manner, with the effect and for the purposes herein provided. [1963 c 45 § 30.]

26.21.240 Foreign support order, additional remedies of obligee—Clerk to file in registry. The clerk of the court shall maintain a registry of foreign support orders in which he shall file foreign support orders. [1963 c 45 § 31.]

26.21.250 Foreign support order, additional remedies of obligee—Petition for registration. The petition for registration shall be verified and shall set forth the amount remaining unpaid and a list of any other states in which the support order is registered and shall have attached to it a certified copy of the support order with all modifications thereof. The foreign support order is registered upon the filing of the petition subject only to subsequent order of confirmation. [1963 c 45 § 32.]

26.21.260 Foreign support order, additional remedies of obligee—Jurisdiction and procedure. The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid. [1963 c 45 § 33.]

26.21.270 Foreign support order, additional remedies of obligee—Effect and enforcement. The support order as confirmed shall have the same effect and may be enforced as if originally entered in the court of this state. The procedures for the enforcement thereof shall be as in civil cases, including the power to punish the respondent for contempt as in the case of other orders for payment of alimony, maintenance or support entered in this state. [1963 c 45 § 34.]

26.21.900 Purpose—1951 c 196. The purposes of this chapter are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto. [1951 c 196 § 1.]

26.21.910 Severability—1963 c 45. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. [1963 c 45 § 35.]

Chapter 26.26 UNIFORM PARENTAGE ACT

Sections

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26.26.010 "Parent and child relationship" defined. As used in this chapter, "parent and child relationship" means the legal relationship existing between a child and his natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. It includes the mother and child relationship and the father and child relationship. [1975-'76 2nd ex.s. c 42 § 2.]

26.26.020 Relationship not dependent on marriage. The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents. [1975-'76 2nd ex.s. c 42 § 3.]

26.26.030 How parent and child relationship established. The parent and child relationship between a child and

(1) the natural mother may be established by proof of her having given birth to the child, or under this chapter;

(2) the natural father may be established under this chapter;

(3) an adoptive parent may be established by proof of adoption or under the provisions of chapter 26.32 RCW. [1975-'76 2nd ex.s. c 42 § 4.]

26.26.040 Presumption of paternity. A man is presumed to be the natural father of a child if:

(1) He and the child's natural mother are or have been married to each other and the child is born during the marriage, or within three hundred days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or dissolution, or after a decree of separation is entered by a court;

(2) Before the child's birth, he and the child's natural mother have attempted to marry each other by a marriage solemnized in apparent compliance with law, although the attempted marriage is or could be declared invalid, and the child is born within three hundred days after the termination of cohabitation;

(3) After the child's birth, he and the child's natural mother have married, or attempted to marry, each other by a marriage solemnized in apparent compliance with

law, although the attempted marriage is or could be declared invalid, and

(a) he has acknowledged his paternity of the child in writing filed with the registrar of vital statistics,

(b) with his consent, he is named as the child's father on the child's birth certificate, or

(c) he is obligated to support the child under a written voluntary promise or by court order;

(4) While the child is under the age of majority, he receives the child into his home and openly holds out the child as his child; or

(5) He acknowledges his paternity of the child in a writing filed with the registrar of vital statistics, who shall promptly inform the mother of the filing of the acknowledgment, and she does not dispute the acknowledgment within a reasonable time after being informed thereof, in a writing filed with the registrar of vital statistics. If another man is presumed under subsections (1), (2), (3), or (4) of this section to be the child's father, such acknowledgment shall give rise to the presumption of paternity only with the written consent of the otherwise presumed father or after such other presumption has been rebutted.

A presumption under this section may be rebutted in an appropriate action only by clear, cogent, and convincing evidence. If two or more presumptions arise which conflict with each other, the presumption which on the facts is founded on the weightier considerations of policy and logic controls. The presumption is rebutted by a court decree establishing paternity of the child by another man. [1975-'76 2nd ex.s. c 42 § 5.]

26.26.050 Artificial insemination. (1) If, under the supervision of a licensed physician and with the consent of her husband, a wife is inseminated artificially with semen donated by a man not her husband, the husband is treated in law as if he were the natural father of a child thereby conceived. The husband's consent must be in writing and signed by him and his wife. The physician shall certify their signatures and the date of the insemination, and file the husband's consent with the registrar of vital statistics, where it shall be kept confidential and in a sealed file.

(2) The donor of semen provided to a licensed physician for use in artificial insemination of a woman other than the donor's wife is treated in law as if he were not the natural father of a child thereby conceived unless the donor and the woman agree in writing that said donor shall be the father. The agreement must be in writing and signed by the donor and the woman. The physician shall certify their signatures and the date of the insemination and file the agreement with the registrar of vital statistics, where it shall be kept confidential and in a sealed file.

(3) The failure of the licensed physician to perform any administrative act required by this section shall not affect the father and child relationship. All papers and records pertaining to the insemination, whether part of the permanent record of a court or of a file held by the supervising physician or elsewhere, are subject to inspection only in exceptional cases upon an order of the

court for good cause shown. [1975-'76 2nd ex.s. c 42 § 6.]

26.26.060 Determination of father and child relationship—Who may bring action—When action may be brought. (1) A child, his natural mother, or a man presumed to be his father under RCW 26.26.040 may bring an action

(a) at any time for the purpose of declaring the existence of the father and child relationship presumed under RCW 26.26.040; or

(b) for the purpose of declaring the nonexistence of the father and child relationship presumed under RCW 26.26.040 (1), (2), (3) or (4) only if the action is brought within a reasonable time after obtaining knowledge of relevant facts. After the presumption has been rebutted, paternity of the child by another man may be determined in the same action, if he has been made a party.

(2) Any interested party or the department of social and health services or the state of Washington may bring an action at any time for the purpose of determining the existence or nonexistence of the father and child relationship.

(3) In an action brought by the state pursuant to this chapter, the state may be represented by either the prosecuting attorney for the county where the action is brought or by the attorney general.

(4) An action to determine the existence of the father and child relationship with respect to a child who has no presumed father under RCW 26.26.040 may be brought by the child, the mother or personal representative of the child, the department of social and health services, the state of Washington, the personal representative or a parent of the mother if the mother has died, a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. If a child has no presumed father under RCW 26.26.040 and the action to determine the existence of the father and child relationship has not been brought and proceedings to adopt the child have not been instituted within one year after the child's birth, an action to determine the existence of the relationship may be brought promptly on behalf of the child by the department of social and health services or the state of Washington.

(5) Regardless of its terms, no agreement between an alleged or presumed father and the mother or child, shall bar an action under this section.

(6) If an action under this section is brought before the birth of the child, all proceedings may be stayed until after the birth, except service of process and discovery, including the taking of depositions to perpetuate testimony.

(7) No action may be brought by the department of social and health services to establish the duty of someone who is not a presumed parent under RCW 26.26.040 to support a child after five years (a) from the date of the child's birth, or (b) from any date the alleged parent ceases to contribute to the care, education, and support of the child, as required by chapter 26.20 RCW, whichever is later: *Provided*, That the time during which

the alleged parent is absent from the state shall not be included in the time periods described above. [1975-'76 2nd ex.s. c 42 § 7.]

26.26.070 Determination of father and child relationship—Petition to arrest alleged father—Warrant of arrest—Issuance—Grounds—Hearing. (1) The petitioner in an action to determine the existence of the father and child relationship may petition the court to issue a warrant for the arrest of the alleged father at any stage of the proceeding including after a judgment has been entered. When such petition is filed, the court shall examine on oath the petitioner and any witnesses the court may require, take their statements, and cause the statements and the petition to be subscribed under oath by the person or persons making such.

(2) If it appears from such evidence that there is reasonable cause to believe that the father and child relationship exists as alleged in the petition the court shall issue a warrant for the arrest of the alleged father: *Provided*, That in the case of a prejudgment petition, a warrant shall only be issued if there is reasonable cause to believe that: (a) The alleged father will not appear in response to a summons; or (b) the summons cannot be served; or (c) the alleged father is likely to leave the jurisdiction; or (d) the safety of the petitioner would be endangered if the warrant did not issue.

(3) In the case of a petition for the arrest of a person pursuant to the continuing jurisdiction of the court described in RCW 26.26.160 or as an aid to enforcement of a judgment and order previously rendered under this chapter, a warrant shall issue only if there is reasonable cause to believe that: (a) The respondent is delinquent in complying with court's order and conceals himself or has absconded or absented himself from his usual place of abode in this state so that ordinary process of law may not be served upon him; or (b) the respondent has or is about to remove any of his property from this state with the intent to delay or otherwise frustrate the court's order; or (c) the respondent has or is about to assign, secrete, convert, or dispose of any of his property with the intent to delay or otherwise frustrate the court's order.

(4) Any person arrested pursuant to this section shall be entitled upon request to a preliminary hearing as soon as practically possible, and in any event not later than the close of business of the next judicial day following the day of arrest. The court may, for good cause stated, enlarge the time prior to preliminary hearing.

(5) If a person arrested pursuant to this section is not afforded a preliminary hearing upon request as required by subsection (4) of this section, the court shall order such person brought before the court forthwith, and in default thereof, the court shall order his immediate release unless good cause to the contrary be shown.

(6) Any person arrested pursuant to this section shall at this first court appearance be ordered released on his personal recognizance pending trial, unless the court determines that such recognizance will not reasonably assure (a) his appearance, when required, or (b) compliance with the court's order. When such determination is

made the court shall order the person returned to custody or impose such other conditions as will reasonably assure his appearance or compliance with the court's order. [1975-'76 2nd ex.s. c 42 § 8.]

26.26.080 Jurisdiction—Venue. (1) The superior courts have jurisdiction of an action brought under this chapter. The action may be joined with an action for divorce, dissolution, annulment, declaration of invalidity, separate maintenance, filiation, support, or any other civil action in which paternity is an issue including proceedings in juvenile court.

(2) A person who has sexual intercourse in this state thereby submits to the jurisdiction of the courts of this state as to an action brought under this chapter with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by statute, personal jurisdiction may be acquired by personal service of summons outside this state or by service in accordance with RCW 4.28.185 as now or hereafter amended.

(3) The action may be brought in the county in which the child or the alleged father resides or is found or, if the father is deceased, in which proceedings for probate of his estate have been or could be commenced. [1975-'76 2nd ex.s. c 42 § 9.]

26.26.090 Parties. The child shall be made a party to the action. If he is a minor he shall be represented by his general guardian or a guardian ad litem appointed by the court. The child's mother or father may not represent the child as guardian or otherwise. The natural mother, each man presumed to be the father under RCW 26.26.040, and each man alleged to be the natural father, shall be made parties or, if not subject to the jurisdiction of the court, shall be given notice of the action in a manner prescribed by the court and an opportunity to be heard. The court may align the parties. [1975-'76 2nd ex.s. c 42 § 10.]

26.26.100 Blood tests. (1) The court may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood tests. The tests shall be performed by an expert qualified as an examiner of blood types, appointed by the court.

(2) The court, upon reasonable request by a party, shall order that independent tests be performed by other experts qualified as examiner of blood types.

(3) In all cases, the court shall determine the number and qualifications of the experts. [1975-'76 2nd ex.s. c 42 § 11.]

26.26.110 Evidence relating to paternity. Evidence relating to paternity may include:

(1) Evidence of sexual intercourse between the mother and alleged father at any possible time of conception;

(2) An expert's opinion concerning the statistical probability of the alleged father's paternity based upon the duration of the mother's pregnancy;

(3) Blood test results, weighted in accordance with evidence, if available, of the statistical probability of the alleged father's paternity;

(4) Medical or anthropological evidence relating to the alleged father's paternity of the child based on tests performed by experts. If a man has been identified as a possible father of the child, the court may, and upon request of a party shall, require the child, the mother, and the man to submit to appropriate tests; and

(5) All other evidence relevant to the issue of paternity of the child. [1975-'76 2nd ex.s. c 42 § 12.]

26.26.120 Civil action—Testimony—Evidence—Jury. (1) An action under this chapter is a civil action governed by the rules of civil procedures. The mother of the child and the alleged father are competent to testify and may be compelled to testify.

(2) Upon refusal of any witness, including a party, to testify under oath or produce evidence of any other kind on the ground that he may be incriminated thereby, and if a prosecuting attorney requests the court to order that person to testify or provide the evidence, the court shall then hold a hearing and shall so order, unless it finds that to do so would be clearly contrary to the public interest, and that person shall comply with the order.

If, but for this section, he would have been privileged to withhold the answer given or the evidence produced by him, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; but he shall not be prosecuted or subjected to criminal penalty or forfeiture for or on account of any transaction, matter, or fact concerning which he has been ordered to testify pursuant to this section. He may nevertheless be prosecuted for failing to comply with the order to answer, or for perjury or for offering false evidence to the court.

(3) Testimony of a physician concerning the medical circumstances of the pregnancy and the condition and characteristics of the child upon birth is not privileged.

(4) In an action against an alleged father, evidence offered by him with respect to a man who is not subject to the jurisdiction of the court concerning his sexual intercourse with the mother at or about the probable time of conception of the child is admissible in evidence only if he has undergone and made available to the court blood tests the results of which do not exclude the possibility of his paternity of the child. A man who is identified and is subject to the jurisdiction of the court shall be made a defendant in the action.

(5) The trial shall be by the court without a jury. [1975-'76 2nd ex.s. c 42 § 13.]

26.26.130 Judgment or order determining parent and child relationship—Support judgment and orders—Custody. (1) The judgment and order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes.

(2) If the judgment and order of the court is at variance with the child's birth certificate, the court shall order that an amended birth certificate be issued.

(3) The judgment and order may contain any other provision directed against the appropriate party to the proceeding, concerning the duty of support, the custody and guardianship of the child, visitation privileges with the child, the furnishing of bond or other security for the

payment of the judgment, or any other matter in the best interest of the child. The judgment and order may direct the father to pay the reasonable expenses of the mother's pregnancy and confinement.

(4) Support judgment and orders shall be for periodic payments which may vary in amount. The court may limit the father's liability for the past support to the child to the proportion of the expenses already incurred as the court deems just: *Provided however*, That the court shall not limit or affect in any manner the right of nonparties including the state of Washington to seek reimbursement for support and other services previously furnished to the child.

(5) In determining the amount to be paid by a parent for support of the child and the period during which the duty of support is owed, the court shall consider all relevant facts, including, but not limited to:

- (a) the needs of the child;
- (b) the standard of living and circumstances of the parents;
- (c) the relative financial means of the parents;
- (d) the earning ability of the parents;
- (e) the need and capacity of the child for education, including higher education;
- (f) the age of the child;
- (g) the responsibility of the parents for the support of others; and
- (h) the value of services contributed by the custodial parent.

(6) In determining custody, a court, in accordance with the best interests of the child, shall consider all relevant facts including:

- (a) The wishes of the child's parents or parent as to his custody and as to visitation;
- (b) The wishes of the child as to his custodian and as to visitation privileges;
- (c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;
- (d) The child's adjustment to his home, school, and community; and
- (e) The mental and physical health of all individuals involved.

The court shall not consider conduct of a proposed custodian that does not affect the welfare of the child.

(7) In any dispute between the natural parents of a child and a person or persons who have (a) commenced adoption proceedings or who have been granted an order of adoption, and (b) pursuant to a court order, or placement by the department of social and health services or by a licensed agency, have had actual custody of the child for a period of one year or more before court action is commenced by the natural parent or parents, the court shall consider the best welfare and interests of the child, including the child's need for situation stability, in determining the matter of custody, and the parent or person who is more fit shall have the superior right to custody. [1975-'76 2nd ex.s. c 42 § 14.]

26.26.140 Costs. The court may order reasonable fees of counsel, experts, and the child's guardian ad

litem, and other costs of the action, including blood tests, to be paid by the parties in proportions and at times determined by the court. [1975-'76 2nd ex.s. c 42 § 15.]

26.26.150 Enforcement of judgments or orders. (1) If existence of the father and child relationship is declared, or paternity or a duty of support has been acknowledged or adjudicated under this chapter or under prior law, the obligation of the father may be enforced in the same or other proceedings by the mother, the child, the state of Washington, the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support, or funeral, or by any other person, including a private agency, to the extent he has furnished or is furnishing these expenses.

(2) The court may order support payments to be made to the department of social and health services pursuant to chapters 74.20 and 74.20A RCW, to a parent, the clerk of the court, or a person, corporation, or agency designated to administer them for the benefit of the child under the supervision of the court.

(3) All remedies for the enforcement of judgments apply. [1975-'76 2nd ex.s. c 42 § 16.]

26.26.160 Modification of judgment or order—Continuing jurisdiction. The court has continuing jurisdiction to prospectively modify a judgment and order for future education and future support, and with respect to matters listed in RCW 26.26.130 (3) and (4), and RCW 26.26.150(2) upon showing a substantial change of circumstances. [1975-'76 2nd ex.s. c 42 § 17.]

26.26.170 Action to determine mother and child relationship. Any interested party may bring an action to determine the existence or nonexistence of a mother and child relationship. Insofar as practicable, the provisions of this chapter applicable to the father and child relationship apply. [1975-'76 2nd ex.s. c 42 § 18.]

26.26.180 Promise to render support. Any promise in writing to furnish support for a child, growing out of a supposed or alleged father and child relationship, does not require consideration and is enforceable according to its terms, subject to RCW 26.26.060(5). [1975-'76 2nd ex.s. c 42 § 19.]

26.26.190 Relinquishment of child for adoption—Notice to other parent. If a parent relinquishes or proposes to relinquish for adoption a child, the other parent shall be given notice of the adoption proceeding and have the rights provided under the provisions of chapter 26.32 RCW. [1975-'76 2nd ex.s. c 42 § 20.]

26.26.200 Hearing or trials to be in closed court—Records confidential. Notwithstanding any other rule of law concerning public hearings and records, any hearing or trial held under this chapter shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent

record of the court or of a file in the department of social and health services, are subject to inspection only upon an order of the court for good cause shown following reasonable notice to all parties of the hearing where such order is to be sought. [1975-'76 2nd ex.s. c 42 § 21.]

26.26.900 Uniformity of application and construction. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it. [1975-'76 2nd ex.s. c 42 § 42.]

26.26.901 Short title. This act may be cited as the Uniform Parentage Act. [1975-'76 2nd ex.s. c 42 § 43.]

26.26.902 Application to pending actions or proceedings. The provisions of this 1976 amendatory act shall apply to all actions or proceedings which shall have been commenced at the date this act becomes effective, except that the provisions of RCW 26.26.120(5) relating to trial by jury, and the amendments to RCW 26.32.085(2) and 26.37.015(3) accomplished by RCW 26.32.085(2) and 26.37.015(3) shall not apply to actions or proceedings commenced prior to the effective date of this act. [1975-'76 2nd ex.s. c 42 § 45.]

26.26.905 Severability—1975-'76 2nd ex.s. c 42. If any provision of this 1976 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-'76 2nd ex.s. c 42 § 44.]

Chapter 26.28 INFANTS

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26.28.010 Age of majority. Except as otherwise specifically provided by law, all persons shall be deemed and taken to be of full age for all purposes at the age of eighteen years. [1971 ex.s. c 292 § 1; 1970 ex.s. c 17 § 1; 1923 c 72 § 2; Code 1881 § 2363; 1866 p 92 § 1; 1863 p 434 § 1; 1854 p 407 § 1; RRS § 10548.]

Severability—1971 ex.s. c 292: "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 292 § 77.] This applies to RCW 2.36.070, 4.16.190, 4.24.030, 4.28-.070, 6.12.290, 6.16.010, 7.28.090, 7.33.130, 8.04.020, 8.20.020, 12.04.050, 12.04.080, 12.04.140, 12.04.150, 15.68.140, 15.80.460, 17.04.070, 17.06.050, 18.04.120, 18.08.140, 18.22.040, 18.28.060, 18.29.020, 18.34.070, 18.39.030, 18.39.040, 18.64.080, 18.78.060, 18.83.030, 18.92.070, 19.60.063, 21.24.010, 21.24.040, 21.24.070, 21.25.010, 21.25.040, 21.25.070, 23A.12.010, 26.28.010, 26.28.080, 26.32.110, 35.24.370, 35.27.500, 36.59.310, 38.12.060, 46.20.011, 46.20.045, 46.20.104, 46.20.293, 47.32.020, 48.17.150, 48.17.380, 65.12.710, 71.02.230, 71.02.411, 71.06.010, 72.23.070, 72.23.090, 72.23.200, 72.23.210, 74.13.020, 78.40.293, 79.01.704, 79.48.130, 83.56.050, 84.36.030, 85.05.110, 85.06.110, 86.09.364, 87.03.045, 87.60.150, and 88.16.010.

Saving—1923 c 72: "This act shall not apply to females who shall have attained the age of eighteen years at the time this act shall go into effect." [1923 c 72 § 3.] 1923 c 72 was codified as RCW 11.92-.010 and 26.28.010.

Age of majority for probate law and procedure purposes: RCW 11.76-.080, 11.76.090, 11.76.095, 11.88.020 and 11.92.010.

26.28.015 Age of majority for enumerated specific purposes. Notwithstanding any other provision of law, all persons shall be deemed and taken to be of full age for the specific purposes hereafter enumerated at the age of eighteen years:

(1) To enter into any marriage contract without parental consent if otherwise qualified by law;

(2) To execute a will for the disposition of both real and personal property if otherwise qualified by law;

(3) To vote in any election if authorized by the Constitution and otherwise qualified by law;

(4) To enter into any legal contractual obligation and to be legally bound thereby to the full extent as any other adult person;

(5) To make decisions in regard to their own body and the body of their lawful issue whether natural born to or adopted by such person to the full extent allowed to any other adult person including but not limited to consent to surgical operations;

(6) To sue and be sued on any action to the full extent as any other adult person in any of the courts of this state, without the necessity for a guardian ad litem. [1971 ex.s. c 292 § 2.]

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

26.28.020 Married persons—When deemed of full age. All minor persons married to a person of full age shall be deemed and taken to be of full age. [1973 1st ex.s. c 154 § 38; Code 1881 § 2364; 1863 p 434 § 2; 1854 p 407 § 2; RRS § 10549.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

26.28.030 Contracts of minors—Disaffirmance. A minor is bound, not only by contracts for necessities, but also by his other contracts, unless he disaffirms them within a reasonable time after he attains his majority, and restores to the other party all money and property received by him by virtue of the contract, and remaining within his control at any time after his attaining his majority. [1866 p 92 § 2; RRS § 5829.]

26.28.040 Disaffirmance barred in certain cases. No contract can be thus disaffirmed in cases where on account of the minor's own misrepresentations as to his majority, or from his having engaged in business as an adult, the other party had good reasons to believe the minor capable of contracting. [1866 p 93 § 3; RRS § 5830.]

26.28.050 Satisfaction of minor's contract for services. When a contract for the personal services of a minor has been made with him alone, and those services are afterwards performed, payment made therefor to such minor in accordance with the terms of the contract, is a full satisfaction for those services, and the parents or guardian cannot recover therefor. [1866 p 93 § 4; RRS § 5831.]

26.28.060 Child labor—Penalty. Every person who shall employ, and every parent, guardian or other person having the care, custody or control of such child, who shall permit to be employed, by another, any child under the age of fourteen years at any labor whatever, in or in connection with any store, shop, factory, mine or any inside employment not connected with farm or house work, without the written permit thereto of a judge of a superior court of the county wherein such child may live, shall be guilty of a misdemeanor. [1973 1st ex.s. c 154 § 39; 1909 c 249 § 195; RRS § 2447.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

Employment permits: RCW 28A.27.090.

Female and child labor: Chapter 49.12 RCW.

26.28.070 Certain types of employment prohibited—Penalty. Every person who shall employ, or cause to be employed, exhibit or have in his custody for exhibition or employment any minor actually or apparently under the age of eighteen years; and every parent, relative, guardian, employer or other person having the care, custody, or control of any such minor, who shall in any way procure or consent to the employment of such minor:

(1) In begging, receiving alms, or in any mendicant occupation; or,

(2) In any indecent or immoral exhibition or practice; or,

(3) In any practice or exhibition dangerous or injurious to life, limb, health or morals; or,

(4) As a messenger for delivering letters, telegrams, packages or bundles, to any known house of prostitution or assignation;

Shall be guilty of a misdemeanor. [1909 c 249 § 194; RRS § 2446.]

Juvenile courts and juvenile delinquents: Title 13 RCW.
Obscene literature: RCW 9.68.010.

26.28.080 Certain acts prohibited—Belief minor in representative capacity, no defense—Penalty. Every person who:

(1) Shall admit to or allow to remain in any concert saloon, or in any place owned, kept, or managed by him where intoxicating liquors are sold, given away or disposed of—except a restaurant or dining room, any person under the age of eighteen years; or,

(2) Shall admit to, or allow to remain in any dance-house, public pool or billiard hall, or in any place of entertainment injurious to health or morals, owned, kept or managed by him, any person under the age of eighteen years; or,

(3) Shall suffer or permit any such person to play any game of skill or chance, in any such place, or in any place adjacent thereto, or to be or remain therein, or admit or allow to remain in any reputed house of prostitution or assignation, or in any place where opium or any preparation thereof, is smoked, or where any narcotic drug is used, any persons under the age of eighteen years; or,

(4) Shall sell or give, or permit to be sold or given to any person under the age of twenty-one years any intoxicating liquor, or to any person under the age of eighteen years any cigar, cigarette, cigarette paper or wrapper, or tobacco in any form; or

(5) Shall sell, or give, or permit to be sold or given to any person under the age of eighteen years, any revolver or pistol;

Shall be guilty of a gross misdemeanor.

It shall be no defense to a prosecution for a violation of this section that the person acted, or was believed by the defendant to act, as agent or representative of another. [1971 ex.s. c 292 § 37; 1919 c 17 § 1; 1911 c 133 § 1; 1909 ex.s. c 27 § 1; 1909 c 249 § 193; 1901 c 122 § 1; 1895 c 126 §§ 1, 3 and 4; RRS § 2445. Formerly RCW 26.08.080, 26.08.090 and 26.08.100.]

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

Contributing to delinquency—Penalty—Bond: RCW 13.04.170.
Juvenile courts and juvenile delinquents: Title 13 RCW.

Chapter 26.30 UNIFORM MINOR STUDENT CAPACITY TO BORROW ACT

Sections	
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26.30.020	Minors—Contracts—Educational purposes— Enforceability.
26.30.900	Uniformity of interpretation.
26.30.910	Short title.
26.30.920	Effective date—1970 ex.s. c 4.

26.30.010 Definitions. As used in this chapter:

(1) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(2) "Educational institution" means any university, college, community college, junior college, high school, technical, vocational, or professional school, or similar institution, wherever located, which has been accredited by the Northwest Association of Higher and Secondary Institutions or approved by the state agency having regulatory powers over the class of schools to which the school belongs, or accredited or approved by the appropriate official, department, or agency of the state in which the institution is located.

(3) "Educational loan" means a loan or other aid or assistance for the purpose of furthering the obligor's education at an educational institution. [1970 ex.s. c 4 § 1.]

Student financial aid program: RCW 28B.10.800–28B.10.824.

26.30.020 Minors—Contracts—Educational purposes—Enforceability. Any written obligation signed by a minor sixteen or more years of age in consideration of an educational loan received by him from any person is enforceable as if he were an adult at the time of execution, but only if prior to the making of the educational loan an educational institution has certified in writing to the person making the educational loan that the minor is enrolled, or has been accepted for enrollment, in the educational institution. [1970 ex.s. c 4 § 2.]

Contracts of minors, disaffirmance: RCW 26.28.030.

26.30.900 Uniformity of interpretation. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. [1970 ex.s. c 4 § 3.]

26.30.910 Short title. This chapter may be cited as the "Uniform Minor Student Capacity to Borrow Act." [1970 ex.s. c 4 § 4.]

26.30.920 Effective date—1970 ex.s. c 4. This chapter shall take effect on July 1, 1970. [1970 ex.s. c 4 § 5.]

Chapter 26.32 ADOPTION

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Reviser's note: RCW 26.32.010 through 26.32.160 (1943 adoption act as amended) were repealed by the adoption act of 1955 (1955 c 291). Since the organization and subject matter of the 1955 act so closely resembles that of the acts repealed, the same RCW numbers have been assigned to the 1955 act. The repealed sections are cited in the history notes as "prior" citations.

For other prior acts, see the following session laws: 1927 c 158; 1905 c 155; 1897 c 34; Code 1881 c 112; 1879 pp 136, 137 §§ 1-6; and 1875 pp 110-112 §§ 1-12.

Child agencies: Chapter 26.36 RCW.

Child welfare agencies: Chapter 74.15 RCW.

Dependent and delinquent children: Title 13 RCW.

Descent and distribution—Adopted children: Chapter 11.04 RCW.

26.32.010 Definition—"Approved agency". As used in this chapter, an "approved agency" means any public or private association, corporation or individual who has custody of a minor child with lawful authority to place such child for adoption. [1955 c 291 § 1. Prior: 1943 c 268 § 1a; Rem. Supp. 1943 § 1699-2. For other "Prior" acts, see Reviser's note following chapter digest.]

26.32.020 Who may adopt. Any person not married, or any husband and wife jointly, or either spouse, when the object of adoption is the child of the other spouse, may petition the superior court of the county in which the petitioner is a resident, or of the county in which the

person to be adopted is domiciled, for leave to adopt, and to change the name, if desired, of any person. [1955 c 291 § 2. Prior: 1943 c 268 § 2; Rem. Supp. 1943 § 1699-3. For other "Prior" acts see Reviser's note following chapter digest.]

26.32.030 Consent to adoption—When required. Written consent to such adoption must be filed prior to a hearing on the petition, as follows:

(1) By the person to be adopted, if such person is fourteen years of age or older, but the filing of such consent shall not obviate the necessity of securing any other consent herein required;

(2) If the person to be adopted is a minor, then by each of his living parents, except as provided in RCW 26.32.040 and 26.32.050 as now or hereafter amended;

(3) If a legal guardian has been appointed for the person of the child, then by such guardian;

(4) If the person to be adopted is a minor and has been permanently committed upon due notice to his parents by any court of general jurisdiction to an approved agency, then by such approved agency, in which event neither notice to nor consent by its parents in the adoption proceeding shall be necessary: *Provided*, That if the approved agency refuses to consent to the adoption, the court, in its discretion, may order that such consent be dispensed with. [1975-'76 2nd ex.s. c 42 § 26; 1973 c 134 § 2; 1955 c 291 § 3. Prior: 1947 c 251 § 1; 1943 c 268 § 3; Rem. Supp. 1947 § 1699-4.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

Severability—1973 c 134: "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 134 § 13.]

Court order for relinquishment of permanent care, etc.: RCW 26.36.010.

26.32.040 Consent, when not required. No consent for the adoption of a minor shall be required as follows:

(1) From a parent deprived of civil rights when in a hearing for that purpose, as provided in RCW 26.32.050, the court finds that the circumstances surrounding the loss of said parent's civil rights were of such a nature that the welfare of the child would be best served by a permanent deprivation of parental rights;

(2) From a parent who has been deprived of the custody of the child by a court of competent jurisdiction, after notice: *Provided*, That a decree in an action for divorce, separate maintenance, annulment, dissolution, declaration of invalidity, declaration of paternity, or any other order in a civil or criminal proceeding including proceedings in juvenile court, which grants to a parent any right of custody, control, or visitation of a minor child, or requires of such parent the payment of support money for such child, shall not constitute such deprivation of custody;

(3) From a parent who, more than one year prior to filing of a petition hereunder, has been adjudged to be mentally ill or otherwise mentally incompetent, and who has not thereafter been restored to competency by the court making such adjudication, and the court at a hearing called for such purpose, as provided in RCW

26.32.050, finds that the best interests of the child will be served by a permanent deprivation of custody;

(4) From a parent who has been found by a court of competent jurisdiction, upon notice as herein provided to such parent, to have deserted or abandoned such child under circumstances showing a wilful substantial lack of regard for parental obligations;

(5) From a parent of a child who has not been acknowledged by such parent and action has not been taken to establish such relationship in accordance with RCW 26.26.020 through 26.26.190, and who prior to entry of the interlocutory decree of adoption has not contested the proposed adoption after having been provided with notice of a hearing on an adoption petition pursuant to the notice provisions of RCW 26.32.085;

(6) From a parent who has surrendered the child pursuant to RCW 26.37.010. [1975-'76 2nd ex.s. c 42 § 27; 1973 c 134 § 3; 1955 c 291 § 4. Prior: 1943 c 268 § 4; Rem. Supp. 1943 § 1699-5.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

Severability—1973 c 134: See note following RCW 26.32.030.

Court order for relinquishment of permanent care, etc.: RCW 26.36.010.

Dissolution of marriage, legal separation, declarations concerning validity of marriage: Chapter 26.09 RCW.

Family desertion: Chapter 26.20 RCW.

26.32.050 Finding of court. If the court in an adoption proceeding, after a hearing for that purpose upon notice thereof as hereinafter provided having been given to a parent, finds any of the conditions set forth in RCW 26.32.040 as now or hereafter amended to be a fact as to the parent, the court may decree that consent of such parent shall not be required prior to adoption. [1975-'76 2nd ex.s. c 42 § 28; 1973 c 134 § 4; 1955 c 291 § 5. Prior: 1943 c 268 § 5; Rem. Supp. 1943 § 1699-6.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

Severability—1973 c 134: See note following RCW 26.32.030.

26.32.060 Petition to adopt—Contents. An adoption proceeding shall be instituted by filing a petition in the superior court of the proper county. The petition shall contain allegations as to all requisite facts, including the new name, if any, to be given the child, the qualifications, religion and race of the adopter, and the race of the child, the religion of the child, if any, and if the child's religion is unknown, then the petition shall state unknown, and shall be signed and verified under oath by the proposed adopter. If the petition is by one spouse to adopt a child of the other spouse, it shall be approved under oath by such other spouse. [1955 c 291 § 6. Prior: 1943 c 268 § 6; Rem. Supp. 1943 § 1699-7. For other "Prior" acts see Reviser's note following chapter digest.]

26.32.070 Written consent—Guardian ad litem—Next friend. (1) The written consent shall be acknowledged before a notary public and filed with the petition or at all events before any action is taken by the court in such proceeding. Such consent shall recite that it is given subject to the approval of the court to be

requested in an adoption proceeding and to have no force or effect until such court has approved the same. Such consent shall also provide therein that, after it is approved by the court and the order of relinquishment issued and filed, as required by RCW 26.36.010 as now or hereafter amended, and the child relinquished to the petitioners, it is not revocable except for fraud practiced by the petitioners or mental incompetency of the person signing the consent at the time of signing the same;

(2) If the parent signing the consent is a minor, the court shall appoint a guardian ad litem, who shall make an investigation and report prior to the order of relinquishment, covering the competency of the person signing the consent and certifying that the consent was voluntarily made and for the best interests of the child;

(3) The court, prior to signing an order of relinquishment, may appoint a next friend, as hereinafter provided in RCW 26.32.090, who shall report to the court either orally or in writing as to the competency of the parent signing the consent, whether or not such consent is voluntary, and whether or not at that time anything affirmatively appears that the best interests of the child would not be served by the adoption. The order of relinquishment shall not be signed without the written approval of the next friend and without the court calling a hearing as to the advisability of the relinquishment, whenever the court appoints a next friend. [1975-'76 2nd ex.s. c 42 § 29; 1955 c 291 § 7. Prior: 1943 c 268 § 7; Rem. Supp. 1943 § 1699-8. For other "Prior" acts see Reviser's note following chapter digest.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

26.32.080 Notice—Form—Service. (1) The court shall direct notice of any hearing under RCW 26.32.050 to be given to any nonconsenting parent or guardian, if any, and to any person or association having the actual care, custody, or control of the child: *Provided*, That where a parent has been deprived of the custody of such child and such child has been set over for adoption by an order of a court of competent jurisdiction, after due notice in a proceeding regularly had for such purpose, no notice need be given to the parent so deprived and the record of such deprivation proceedings shall be deemed prima facie proof of such deprivation;

(2) Such notice shall be given in the following manner: The court shall direct the clerk to issue a notice of such hearing directed to the persons entitled to notice, notifying such persons of the filing of the petition, stating briefly the object of the petition and the purpose of the hearing, and notifying such persons of the date, time and place of the hearing. A copy of the notice shall be served in the manner provided by law for the service of the summons upon the persons entitled thereto at least ten days prior to the hearing;

(3) In the event it shall appear by the affidavit of the petitioners that the persons entitled to notice, or either of them, are nonresidents of the state or that they cannot, after diligent search, be found within the state, and that a copy of said notice has been deposited in the post

office, postage prepaid, directed to such person or persons at their last known place of residence, unless it is stated in the affidavit that such residence is unknown to petitioners, then the court shall order said notice published in a legal newspaper printed in the county, qualified to publish summons, once a week for three consecutive weeks, the first publication of said notice to be at least twenty-five days prior to the date fixed for the hearing. Proof of service of notice shall be filed in the cause as required by law for making proof of the service of summons or summons by publication;

(4) Personal service of the notice out of the state, made twenty-five days or more prior to the date fixed for the hearing, shall be deemed equivalent to service by publication;

(5) Notice to any nonconsenting parent of such child shall be made as required under the provisions of RCW 26.32.085 as now or hereafter amended.

(6) Except as provided in subsection (5) of this section, a notice in substantially the following form will be deemed sufficient:

IN THE SUPERIOR COURT
OF THE STATE OF WASHINGTON
FOR THE COUNTY OF -----

In the Matter of the Adoption of JANE DOE } No. -----
NOTICE

To John Doe (nonconsenting parent) and to all whom it may concern:

You are hereby notified that there has been filed in this court a petition for the adoption of the above named, praying also that there be first an adjudication that the consent of John Doe to such adoption is not required by law.

A hearing for such purpose will be had on the ----- day of -----, 19--, at the hour of 9:30 a.m., at the courtroom of said superior court, at -----, or to such other department of the court to which said matter may be then and there transferred, when and where all persons interested shall appear and show cause why such adjudication should not be made, and why, if made, such petition should not be thereafter heard forthwith and the prayer thereof granted.

WITNESS, The Honorable -----, Judge of said Superior court, and the seal of said court hereunto affixed this ----- day of -----, 19--.

Clerk

Deputy Clerk

(SEAL)

[1975-'76 2nd ex.s. c 42 § 30; 1973 c 134 § 5; 1955 c 291 § 8. Prior: 1947 c 251 § 2; 1943 c 268 § 8; Rem. Supp. 1947 § 1699-9.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

Severability—1973 c 134: See note following RCW 26.32.030.

Civil procedure, commencement of actions: Chapter 4.28 RCW.

26.32.085 Notice requirements to nonconsenting alleged parent who has not acknowledged or taken action to establish parent and child relationship. The following requirements regarding notice of hearing on a petition for adoption shall apply to an alleged parent of a child who has not acknowledged the relationship and action has not been taken to establish such relationship in accordance with RCW 26.26.020 through 26.26.190, and who has not consented to the adoption of such child:

(1) Where the court has reason to believe or suspect that any person not before the court is or might be the parent of such child, the court shall direct the clerk to issue the notice prescribed in subsection (3) of this section to such person. The notice required under this subsection shall be served in the manner provided by law for the service of summons upon the person entitled thereto at least ten days prior to the hearing. In the event that a person entitled to notice under this subsection is a non-resident of the state or cannot after diligent search be found within the state, then:

(a) If the last known place of residence of such person is known, a copy of notice shall be deposited in the post office, postage prepaid, directed to such person at his last known place of residence.

(b) If the last known place of residence of such person is not known, then notice shall be made by publication in the manner required under subsection (2) of this section and as prescribed under subsection (3) of this section.

(2) Notice by publication shall be made in every case, except where service of the notice has been made on a person who either:

(a) acknowledges that he is a parent and the court finds him to be a parent, or

(b) has been found to be the father pursuant to *chapter 26.24 RCW.

In addition, the court may require notice by publication whenever the court believes such notice might be necessary to protect the validity of adoption proceedings and any decree of adoption. Whenever notice by publication is required, the court shall direct the clerk to publish the notice in a legal newspaper qualified to publish summons, printed in the county or counties in which in the exercise of sound judicial discretion the court determines the alleged parent is likely to reside, once a week for three consecutive weeks, the first publication of said notice to be at least twenty-five days prior to the date fixed for the hearing. The notice shall be in the form prescribed under subsection (3) of this section.

(3) The notice required under subsections (1) and (2) of this section shall be in substantially the following form:

IN THE SUPERIOR COURT
OF THE STATE OF WASHINGTON
FOR THE COUNTY OF -----

In the Matter of the Adoption of JANE DOE } No. -----
NOTICE

To all whom it may concern:

You are hereby notified that there has been filed in this court a petition for the adoption of the above named, praying also that there be first an adjudication

that the consent of the [father or mother] of such child is not required by law.

You are also notified that the consent of the [mother or father] of the above named, such [mother's or father's] name being, has already been given or is not required by law.

A hearing for such purpose will be had on the day of, 19--, at the hour of 9:30 a.m., at the courtroom of said superior court, at, or to such other department of the court to which said matter may be then and there transferred, when and where all persons interested shall appear and show cause why such adjudication should not be made, and why, if made, such petition should not be thereafter heard forthwith and the prayer thereof granted.

WITNESS, The Honorable, Judge of said Superior court, and the seal of said court hereunto affixed this day of, 19--.

(SEAL) Clerk Deputy Clerk

[1975-'76 2nd ex.s. c 42 § 31; 1973 c 134 § 6.]

*Reviser's note: "chapter 26.24 RCW" was repealed by 1975-'76 2nd ex.s. c 42 § 41.

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

Severability—1973 c 134: See note following RCW 26.32.030.

26.32.090 Next friend—Investigation and report. Upon the filing of a petition for adoption, the court shall cause an investigation of the propriety of the adoption to be made. The court shall appoint an approved agency or any qualified salaried court employee or any other suitable and proper person as next friend of the child to make such investigation. The investigation shall be made without expense to the petitioners. The investigator appointed by the court shall make a report in writing to the court within sixty days from the time of the appointment unless further time be granted by the court. Such report shall be in writing and contain all reasonably available information concerning the physical and mental condition of the child, the religion of the child, if any, and if unknown, then the report shall designate unknown, the parents of the child, and the home environment, family life, health, facilities and resources of the petitioners, and any other facts and circumstances relating to the propriety and advisability of the adoption. Any replacement report on the petitioner required by this chapter to be filed with the court shall be made available to the next friend; the next friend may in his discretion rely on its contents and adopt its recommendations and may incorporate the same in the report of the next friend.

When the object of the adoption proceeding is the petition of a parent to adopt the child of the other spouse, the report of the next friend shall be made within ten days of the date of appointment, unless such time is extended by the court, and in such cases the court may dispense with formal written report and

require such information as the court deems necessary in the particular case as to the propriety of the adoption. [1971 ex.s. c 172 § 1; 1955 c 291 § 9. Prior: 1947 c 251 § 3; 1943 c 268 § 9; Rem. Supp. 1947 § 1699-10.]

Rules of court: SPR 93.04W.

26.32.100 Hearing required—Private hearing. No decree of adoption shall be granted without a hearing thereon, whether the report of next friend is favorable or adverse. All such hearings, as well as any hearing incidental to an adoption, shall not be public unless specially ordered by the court. [1955 c 291 § 10. Prior: 1943 c 268 § 10; Rem. Supp. 1943 § 1699-11. For other "Prior" acts see Reviser's note following chapter digest.]

Powers of commissioner—Fees: RCW 2.24.040(6).

26.32.110 When investigation and notice may be dispensed with. If the petition is for the adoption of a person over the age of eighteen years and of legal competency, and is accompanied by the written consent of such person, neither notice to any person nor investigation shall be required. [1971 ex.s. c 292 § 38; 1955 c 291 § 11. Prior: 1947 c 251 § 5; 1943 c 268 § 14; Rem. Supp. 1947 § 1699-15.]

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

26.32.115 Adoption of hard to place children—Court to consider state agreement with prospective adoptive parents. In deciding whether to grant a petition for adoption of a hard to place child and in reviewing any request for the vacation or modification of a decree of adoption the superior court shall consider any agreement made or proposed to be made between the secretary of social and health services and any prospective adoptive parent for any payment or payments which have been provided and/or which are to be provided by the secretary in support of the adoption of such child. Prior to the date of the hearing on the petition to adopt, to vacate, or to modify an adoption decree the secretary shall file as part of the adoption file with respect to such child a copy of any such initial agreement, together with any changes made in such agreement, or in the standards relating thereto.

If the court, in its judgment, finds the provision made in an agreement to be inadequate it may make such recommendation as it deems warranted with respect thereto to the secretary of social and health services. The court shall not, however, solely by virtue of this section, be empowered to direct the secretary to make any such payment, provided that this section shall not be deemed to limit any other power of the superior court with respect to such adoption and any matter relating thereto. [1971 ex.s. c 63 § 12.]

Short title—1971 ex.s. c 63: RCW 74.13.145.

26.32.120 Decree—Contents. Upon the conclusion of such hearing, if had, or upon filing the report of investigation, if any, or as soon as the procedure hereunder may permit, the court shall enter its decree either granting or denying the petition for adoption and change

of name, if any, all as in its discretion it shall deem proper. If the decree is for adoption, it shall provide:

(1) For the issuance of a certificate of birth of any child born in the state of Washington, by the state registrar of vital statistics, in such form and containing such information as the court may deem proper and by such decree shall direct;

(2) That the records of the registrar shall be secret unless otherwise provided by the court, and the same shall be disclosed only upon order of court for good cause shown;

(3) That such adoption shall remain interlocutory for six months from date of entry of such decree, and shall become absolute at the expiration of said six months.

Such decree shall be final as to the parties thereto and those notified as herein provided unless appealed from within thirty days after entry thereof. [1955 c 291 § 12. Prior: 1947 c 251 § 4, part; 1943 c 268 § 11, part; Rem. Supp. 1947 § 1699-12, part. For other "Prior" acts see Reviser's note following chapter digest.]

Rules of court: Cf. RAP 2.2(a)(1), 18.22.

26.32.130 Vacation of decree. At any time prior to the expiration of six months from entry of such decree, any interested person may file in the adoption proceedings his verified petition for the vacation or modification of such decree.

Such decree may be vacated only where the court finds from the facts alleged and proven that no other solution is possible, consistent with the welfare of the minor child. Upon the filing of such petition, the court shall, upon application, fix a time for hearing thereon. At least ten days' notice of such hearing shall be served upon all of the parties to the adoption proceeding and to the persons served as provided in RCW 26.32.080 and also upon the person making the report of investigation pursuant to RCW 26.32.090. Upon such hearing, if the petition is granted, the court shall enter an order vacating the decree of adoption, and may also make such further order for the welfare of the child as in its discretion seems proper. An appeal from any order vacating or refusing to vacate such decree may be taken, as in civil cases.

If no appeal be taken from the decree of adoption and if no petition to vacate or modify the same is filed within such six months period then the decree shall be deemed a final judgment as of the date of its entry. [1955 c 291 § 13. Prior: 1947 c 251 § 4, part; 1943 c 268 § 11, part; Rem. Supp. 1947 § 1699-12, part. For other "Prior" acts see Reviser's note following chapter digest.]

Rules of court: Cf. RAP 2.2(a)(1), 18.22.

Vacation and modification of judgments: Chapter 4.72 RCW.

26.32.140 Effect of decree of adoption. By a decree of adoption the natural parents shall be divested of all legal rights and obligations in respect to the child, and the child shall be free from all legal obligations of obedience and maintenance in respect to them, and shall be, to all intents and purposes, and for all legal incidents, the child, legal heir, and lawful issue of his or her adopter or adopters, entitled to all rights and privileges,

including the right of inheritance and the right to take under testamentary disposition, and subject to all the obligations of a child of the adopter or adopters begotten in lawful wedlock. An adopter or adopters and the spouse of an adopted child, and their respective kin, shall have the rights of inheritance from such child prescribed by the statutes of descent and distribution for natural parents, spouse, and their respective kin to the exclusion of the adopted child's natural parents and kin and any prior adopted [adopter] or adopters and their kin: *Provided*, That where an adopter is the spouse of a natural parent of an adopted child, such natural and adopted parent and kin shall inherit the same as natural parents and their kin. [1955 c 291 § 14. Prior: 1943 c 268 § 12; Rem. Supp. 1943 § 1699-13. For other "Prior" acts see Reviser's note following chapter digest.]

26.32.150 Records to be sealed. Unless otherwise requested by the adopted, all records of any proceeding hereunder shall be sealed and shall not be thereafter open to inspection by any person except upon order of the court for good cause shown, and thereafter shall be again sealed as before. [1955 c 291 § 15. Prior: 1943 c 268 § 13; Rem. Supp. 1943 § 1699-14. For other "Prior" acts see Reviser's note following chapter digest.]

Rules of court: SPR 93.04W.

26.32.160 Copy of decree to registrar. If a decree of adoption is entered, as soon as the time for appeal therefrom has expired, or if an appeal is taken, then upon final determination thereof, if the adoption is affirmed, the clerk of the court shall transmit to the state registrar of vital statistics a certified copy of such decree. [1955 c 291 § 16. Prior: 1943 c 268 § 15; Rem. Supp. 1943 § 1699-16. For other "Prior" acts see Reviser's note following chapter digest.]

26.32.200 Preplacement study and report—Definitions. As used in RCW 26.32.090 and 26.32.200 through 26.32.280:

(1) "Minor" means any individual under the age of eighteen years;

(2) "Child" means a son or daughter, whether by birth or adoption;

(3) "Stepchild" means a child of the petitioner's spouse who is not the child of the petitioner;

(4) "Agency" means a licensed child-placing agency as provided in chapter 74.15 RCW or the state department of social and health services;

(5) "Petitioner" includes the prospective petitioner (any person contemplating the adoption of a child, whether the particular child has been identified or not). [1971 ex.s. c 172 § 2.]

26.32.210 Preplacement report and sworn statement required before adoption or relinquishment. (1) No petition for the adoption of a minor shall be granted unless a preplacement report and petitioner's sworn statement that he has caused to be filed all reports known to him on preplacement studies made of petitioner are on file with the court except as provided in RCW 26.32.270(2).

(2) No order of relinquishment as to a minor whom petitioner seeks to adopt shall be granted unless:

(a) A preplacement report and petitioner's sworn statement that he has caused to be filed all reports known to him on preplacement studies made of petitioner are on file with the court prior to the hearing on the order of relinquishment; or

(b) The order of relinquishment provides that the minor is to be relinquished to the custody of an agency. [1971 ex.s. c 172 § 3.]

26.32.220 Preplacement report—Contents. (1) The preplacement report shall consist of a written report to the court setting forth all relevant information relating to the fitness of the petitioner as a prospective adoptive parent. The preplacement report shall be based upon a study which shall include an investigation of the home environment, family life, health, facilities, and resources of petitioner. The preplacement report shall provide the court with such other information as may be relevant to the placement of a child in the petitioner's home. The preplacement report shall include a list of the sources of information upon which the report is based. The preplacement report shall include a recommendation to the court as to the fitness of the petitioner as a prospective adoptive parent and as to whether it would be in the best interest of a child to be placed in the home of the petitioner. The recommendation shall be advisory to the court. The preplacement report shall be dated and verified.

(2) A single preplacement report may be filed for a husband and wife who join as petitioners in an adoption proceeding. [1971 ex.s. c 172 § 4.]

26.32.230 Preplacement study and report—How conducted—Fees—Filing of report. (1) The preplacement study shall be conducted by an agency or a qualified salaried court employee.

(2) An agency may charge the petitioner a fee for the preparation of a preplacement study and report. The fee may be waived or reduced in the discretion of the agency if a waiver or reduction is warranted by the financial condition of the petitioner. The court shall set a reasonable fee to be paid by petitioner where the study is conducted by a court employee, which fee may be likewise waived or reduced. All fees charged pursuant to this section shall be reasonable and based on time spent conducting the study and preparing the report, and in addition, shall be subject to review by the court upon request.

(3) The petitioner shall give written notice to any agency or court employee authorized by the petitioner to conduct a preplacement study requesting that the preplacement report be filed. The petitioner shall designate the county in which the report is to be filed. Upon completion of the preplacement study, the agency or court employee shall file the preplacement report with the clerk of the superior court, or with the family court or as the court of the respective county shall direct. No filing fee shall be charged for the filing of the report, and the clerk and court are directed to accept the report for filing without fee. The report shall be indexed in the name

of the petitioner and a cause or file number shall be assigned. The filing system shall be such that the original or duplicate of any reports filed of preplacement studies of petitioner shall be placed in the file of the cause where any subsequent proceedings in respect to placement of a child with petitioner or any adoption petition filed by petitioner is filed. [1971 ex.s. c 172 § 5.]

26.32.240 Preplacement study by more than one agency—Reports to be filed—Incomplete reports. A petitioner may at any time request a preplacement study by one or more than one agency. The petitioner shall cause to be filed a report on every preplacement study requested. The petitioner may request that a preplacement study not be completed. An agency may charge a fee for value of work done on a study not completed at the request of the petitioner. An agency which has been authorized to make a preplacement study and requested not to complete that study shall be notified of contemplated adoption proceedings and given an opportunity to file a partial report and participate in the hearing. [1971 ex.s. c 172 § 6.]

26.32.250 Notice to agency or person making preplacement study—Service—Appearance—Waiver. The petitioner shall give not less than three days written notice to all agencies or any court employee authorized to make a preplacement study prior to a hearing where a preplacement report is required to be on file. The notice shall state the name of the petitioner, the cause number of the proceedings, the time and place of the hearing, and the object of the hearing. Proof of service on the agency in form satisfactory to the court shall be furnished. The agency may appear at the hearing and give testimony concerning any matters relevant to the relinquishment or the adoption and its recommendation as to the fitness of petitioners as parents. The agency may in writing acknowledge notice and state to the court that the agency does not desire to participate in the hearing or it may in writing waive notice of any hearing. [1971 ex.s. c 172 § 7.]

26.32.260 Preplacement report—Copies—Filing—Confidentiality. (1) A copy of the preplacement report shall be made available to the petitioner upon his request after filing of the report. The report shall be filed not less than twenty days prior to any hearing where a preplacement report is required to be filed, except that for good cause shown, the court by appropriate order may shorten said period.

(2) The agency shall keep the preplacement study, the report, and all information upon which it is based confidential and closed to public inspection, except upon an order of the court for good cause shown. [1971 ex.s. c 172 § 8.]

26.32.270 Preplacement study and report—Agency having custody—Exemptions. (1) An agency having the custody of a minor may make the preplacement study and report on a petitioner for the adoption of that minor.

(2) No preplacement study or report shall be required when the object of a petition is the adoption of a step-child, unless otherwise directed by the court.

(3) No preplacement study or report shall be required in any adoption proceeding pending on August 9, 1971. [1971 ex.s. c 172 § 9.]

26.32.280 Statistical data concerning adoptions. The department of social and health services shall be a depository for statistical data concerning adoption. It shall furnish to the clerk of each county a data card which shall be completed and filed with the clerk on behalf of each petitioner. The clerk shall forward the completed cards to the department which shall compile the data and publish an annual report summarizing said data. The form shall include: Birth date, sex, race, and legal status of the person to be adopted, birth date, race, and relationship, if any, of the adoptive mother and father to the child, date of placement of the minor in the prospective adoptive home, whether placement was by natural parent, relative, physician, attorney, hospital personnel, licensed child placing agency, department of social and health services or other, the action taken by the court on the petition and the date of the action. It shall include the cause number, but shall not include the name of the child, natural or adoptive parents. No birth certificate shall be issued showing petitioner as parent of any child adopted in the state of Washington until said card shall have been completed and filed. [1971 ex.s. c 172 § 10.]

26.32.300 Petition by natural parent to set aside adoption—Liability for costs of support. Where a natural parent (or parents) of a child successfully petitions to have the adoption of the child set aside, the parent shall be liable to the adoptive parents (or parent) for their direct and indirect costs in supporting such child.

The term "direct and indirect costs" as used in this section shall include both actual expenditures and the value of services rendered by the adoptive parents in caring for the child. [1975-'76 2nd ex.s. c 42 § 32; 1973 c 134 § 10.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

Severability—1973 c 134: See note following RCW 26.32.030.

26.32.310 Action by natural parent to set aside adoption conditioned upon bond to satisfy support costs. In each action brought by a natural parent (or parents) of a child to set aside the adoption of the child, no hearing or trial on the merits of the action shall be conducted until such time as the natural parent (or parents) posts a bond equal to one hundred dollars for each period of thirty days which the adoptive parents (or parent) had custody of the child. Such bond shall be used to satisfy the adoptive parents' right under RCW 26.32.300 to compensation for support in the event the adoption is set aside. [1975-'76 2nd ex.s. c 42 § 33; 1973 c 134 § 11.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900-26.26.905.

Severability—1973 c 134: See note following RCW 26.32.030.

26.32.900 Short title. This act may be known and cited as "The Washington State Adoption Act." [1943 c 268 § 1; no RRS. Prior: See note following chapter digest.]

Reviser's note: This section and RCW 26.32.910 are all that remain of 1943 c 268 which was repealed and substantially reenacted by 1955 c 291.

26.32.910 Severability—1943 c 268. If any section, sentence, clause or phrase of *this 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 act. [1943 c 268 § 17; no RRS.]

***Reviser's note:** "this act", see note following RCW 26.32.900.

Chapter 26.34

INTERSTATE COMPACT ON PLACEMENT OF CHILDREN

Sections

26.34.010	Compact enacted—Provisions.
26.34.020	Financial responsibility.
26.34.030	"Appropriate public authorities" defined.
26.34.040	"Appropriate authority of the receiving state" defined.
26.34.050	Authority of state officers and agencies to enter into agreements—Approval.
26.34.060	Jurisdiction of courts.
26.34.070	"Executive head" defined—Compact administrator.
26.34.080	Violations—Penalty.

26.34.010 Compact enacted—Provisions. The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

ARTICLE I. Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II. Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employee thereof; a subdivision of a party state, or officer or employee thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally defective or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III. *Conditions for Placement*

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

- (1) The name, date and place of birth of the child.
- (2) The identity and address or addresses of the parents or legal guardian.
- (3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.
- (4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV. *Penalty for Illegal Placement*

The sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children.

ARTICLE V. *Retention of Jurisdiction*

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI. *Institutional Care of Delinquent Children*

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

- (1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII. *Compact Administrator*

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII. *Limitations*

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or nonagency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX. *Enactment and Withdrawal*

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction. Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X. *Construction and Severability*

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1971 ex.s. c 168 § 1.]

26.34.020 Financial responsibility. Financial responsibility for any child placed pursuant to the provisions of the Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article V thereof in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of RCW 26.16.205 and 26.20.030 shall apply. [1971 ex.s. c 168 § 2.]

26.34.030 "Appropriate public authorities" defined. The "appropriate public authorities" as used in Article III of the Interstate Compact on the Placement of Children shall, with reference to this state, mean the department of social and health services, and said agency shall receive and act with reference to notices required by said Article III. [1971 ex.s. c 168 § 3.]

26.34.040 "Appropriate authority of the receiving state" defined. As used in paragraph (a) of Article V of the Interstate Compact on the Placement of Children, the phrase "appropriate authority in the receiving state" with reference to this state shall mean the department of social and health services. [1971 ex.s. c 168 § 4.]

26.34.050 Authority of state officers and agencies to enter into agreements—Approval. The officers and agencies of this state and its subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to paragraph (b) of Article V of the Interstate Compact on the Placement of Children. Any such agreement which contains a financial commitment or imposes a financial obligation on this state or subdivision or agency thereof shall not be binding unless it has the approval in writing of the director of the office of program planning and fiscal management in the case of the state and of the treasurer in the case of a subdivision of the state. [1971 ex.s. c 168 § 5.]

26.34.060 Jurisdiction of courts. Any court having jurisdiction to place delinquent children may place such a child in an institution of or in another state pursuant to Article VI of the Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article V thereof. [1971 ex.s. c 168 § 6.]

26.34.070 "Executive head" defined—Compact administrator. As used in Article VII of the Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of said Article VII. [1971 ex.s. c 168 § 7.]

26.34.080 Violations—Penalty. Any person, firm, corporation, association or agency which places a child in the state of Washington without meeting the requirements set forth herein, or any person, firm, corporation, association or agency which receives a child in the state of Washington, where there has been no compliance with the requirements set forth herein, shall be guilty of

a misdemeanor. Each day of violation shall constitute a separate offense. [1971 ex.s. c 168 § 8.]

Chapter 26.36 CHILD AGENCIES

Sections

- 26.36.010 Court order for relinquishment of permanent care, etc.
- 26.36.020 Children's agencies to keep records.
- 26.36.030 Records not to be divulged.
- 26.36.040 No disposal of infants without order—Advertising.
- 26.36.050 Medical report required to be furnished adopting parents—Contents.
- 26.36.060 Penalty.

Adoption: Chapter 26.32 RCW.

Aid to dependent children—Child welfare services—Services to crippled children: Chapter 74.12 RCW.

Child welfare agencies: Chapter 74.15 RCW.

Juvenile courts and delinquents: Title 13 RCW.

Protection of orphan, homeless, or neglected children: Chapter 26.37 RCW.

State institutions: Title 72 RCW.

26.36.010 Court order for relinquishment of permanent care, etc. It shall be unlawful for any person, partnership, society, association, or corporation, except the parents, to assume the permanent care, custody, or control of any minor child unless authorized so to do by a written order of a superior court of the state. It shall be unlawful, without the written order of the superior court having first been obtained, for any parent or parents to in any wise relinquish or transfer to another person, partnership, society, association, or corporation, the permanent care, custody, or control of any minor child for adoption or any other purpose, and any such relinquishment or transfer shall be void: *Provided*, That waivers and relinquishments heretofore signed by the parent or parents of said children or child shall be given the same force and effect as would be given prior to the enactment of this law.

None of the court proceedings in conformity with this chapter shall be open to the public unless otherwise directed by the presiding judge. [1951 c 251 § 1; 1939 c 162 § 1; 1935 c 150 § 1; RRS § 1700-1. Prior: 1933 c 62 § 1.]

26.36.020 Children's agencies to keep records. Every person, firm, society, association or corporation receiving, securing a home for, or otherwise caring for a minor child, shall keep a record in which shall be shown the names, ages, present and former addresses, occupations and characters, of the parents of every such child, so far as is known, and also the name, date of birth, date and manner of reception, date of placing for adoption of each child, together with the name, occupation and residence of the person or persons with whom each child is placed for adoption or otherwise, and the reason and purpose of such placing, the date and cause of cancellation of any placing out of each child, the date and cause of removal to any other home or homes, the names and residences of all persons in whose custody or care each child is placed, the date and by whom each child is legally adopted, and also a history of each child over the

period that such child is under the care, custody or control of such person, firm, society, association or corporation. [1935 c 150 § 2; RRS § 1700-2. Prior: 1933 c 62 § 2, part.]

26.36.030 Records not to be divulged. It shall be unlawful for any person to show or to divulge the contents of any of the court records existing by reason of RCW 26.36.010 or of the records required to be kept under RCW 26.36.020, except on written order of the superior court made upon a petition showing to the satisfaction of the court that the divulging of the information would inure to the benefit of the child. [1935 c 150 § 3; RRS § 1700-3. Prior: 1933 c 62 §§ 2, part and 3.]

Decree—Contents: RCW 26.32.120.

Hearing—Records and reports—Judgment: RCW 13.04.091, 13.04.105.

Records to be sealed: RCW 26.32.150.

26.36.040 No disposal of infants without order—Advertising. No maternity hospital, physician, midwife, or nurse, or any other person shall directly or indirectly dispose of infants by placing them in family homes for permanent care or for adoption, until after the order of relinquishment has been entered: *Provided*, That this shall not apply to spouses either of whom is the parent of such child where the family home wherein the child is placed is the home of the spouses.

No person, as an inducement to a woman to go to any maternity hospital, maternity home or place of refuge for confinement care, shall in any way offer to dispose of any child or advertise that he will give children for adoption, or hold himself out directly or indirectly as being able to dispose of children. [1951 c 251 § 2; 1939 c 162 § 2; 1935 c 150 § 4; RRS § 1700-4.]

26.36.050 Medical report required to be furnished adopting parents—Contents. Every person, firm, society, association, or corporation receiving, securing a home for, or otherwise caring for a minor child shall transmit to the prospective adopting parent prior to placement and shall make available to all persons with whom a child has been placed by adoption a complete medical report containing all reasonably available information concerning said child. This report shall contain, but shall not be limited to, all reasonably available information which would indicate that the child is mentally deficient or physically impaired by reason of heredity, process of birth, disease, or any other cause, but said report shall not reveal the identity of the natural parents of the child. RCW 26.36.030 and RCW 26.36.060 shall not apply to any information made available by this section: *Provided, however*, That this section shall not apply to attorneys performing legal services in connection with adoptions. [1970 ex.s. c 82 § 1.]

26.36.060 Penalty. Any person violating any of the provisions of this chapter shall be guilty of a gross misdemeanor. [1935 c 150 § 6; RRS § 1700-6.]

Chapter 26.37
PROTECTION OF ORPHAN, HOMELESS, OR
NEGLECTED CHILDREN

Sections

26.37.010	Societies may receive, control and dispose of children—When.
26.37.015	Surrender of child—Petition, court approval, required—Hearing—Notice provisions.
26.37.020	Warrant to take charge of child—Proceedings.
26.37.030	County charges—Surrender to society.
26.37.040	Investigation of neglect—Duty of police.
26.37.050	Minor convicted of offense—Rights of parent.
26.37.060	Society not to act as guardian.
26.37.070	Hearing on habeas corpus—Evidence.
26.37.080	Court costs and child care expense.

Adoption: Chapter 26.32 RCW.

Aid to dependent children—Child welfare services—Services to crippled children: Chapter 74.12 RCW.

Child agencies: Chapter 26.36 RCW.

Child welfare agencies: Chapter 74.15 RCW.

Dependent and delinquent children: Title 13 RCW.

26.37.010 Societies may receive, control and dispose of children—When. Any benevolent or charitable society incorporated under the laws of this state for the purpose of receiving, caring for or placing out for adoption, or improving the condition of orphan, homeless, neglected or abused minor children of this state shall have authority to receive, control, and dispose of children under eighteen years of age under the following provisions:

(1) When the father and mother or the person or persons legally entitled to act as guardian of the person of any minor child shall, in writing, surrender such child to the charge and custody of said society, such child shall thereafter be in legal custody of such society for the purposes herein provided.

(2) In case of death or legal incapacity of a father or his abandonment or neglect to provide for his family, the mother shall have authority to make such surrender, and in case of the death or legal incapacity of a mother, or her abandonment of such child, then the father shall have authority to make such surrender.

(3) In all cases where the person or persons legally authorized to make such surrender are not known, any judge of superior court may cause a notice of hearing to be published in any newspaper of general circulation printed and published in the county, and if he deems it best for such orphan, homeless, neglected or abused child, he may surrender it to any benevolent or charitable society incorporated under the laws of Washington and having for its object the care of such children.

(4) In cases where the child to be surrendered has not been acknowledged by either parent and action has not been taken to establish such relationship in accordance with RCW 26.26.020 through 26.26.190, and is surrendered in writing by either parent, but not both parents, then the court shall hold a hearing on the surrender in the manner provided under RCW 26.37.015, and if the parent who has not agreed to the surrender in writing does not contest the surrender at such hearing, then such parent shall be deemed to have surrendered the child

and the court shall authorize the surrender. This subsection shall not apply to or bar surrenders authorized under subsection (2) of this section.

(5) When any child shall have been surrendered in accordance with any of the preceding clauses and such child shall have been accepted by such society, then, (but not otherwise), the rights of its natural parents or of the guardian of its person (if any) shall cease and such corporation shall become entitled to the custody of such child, and shall have authority to care for and educate such child or place it either temporarily or permanently in a suitable private home in such manner as shall best secure its welfare. Such corporation shall have authority when any such child has been surrendered to it in accordance with any of the preceding provisions, and it is still in its control, to consent to its adoption under the laws of Washington. The custody or control of any such child by any such corporation or by any other corporation, institution, society or person may be inquired into, and, in the discretion of the court, terminated at any time by the superior court of the county where the child may be, upon the complaint of any person, and a showing that such custody is not in the interest of the child. [1975-'76 2nd ex.s. c 42 § 34; 1973 c 134 § 7; 1903 c 49 § 1; RRS § 1700.]

Severability—Savings—Construction—1975-'76 2nd ex.s. c 42: See RCW 26.26.900–26.26.905.

Severability—1973 c 134: See note following RCW 26.32.030.

Consent to adoption: RCW 26.32.030, 26.32.040, and 26.32.070.

Court order for relinquishment of permanent care, etc.: RCW 26.36.010.

Uniform parentage act: Chapter 26.26 RCW.

26.37.015 Surrender of child—Petition, court approval, required—Hearing—Notice provisions. (1) Whenever one parent, but not both parents, of a child who has not been acknowledged by either parent and action has not been taken to establish such relationship in accordance with RCW 26.26.020 through 26.26.190, surrenders the child in writing pursuant to subsection (4) of RCW 26.37.010, the surrender shall not be valid unless a petition for surrender is granted by the court in conformity with the provisions of this section. The court shall grant such petition if the parent who did not provide the surrender in writing fails to contest the petition at the hearing held thereon.

(2) Where the court has reason to believe or suspect that any person not before the court is or might be the parent of such child, the court shall direct the clerk to issue the notice prescribed in subsection (4) of this section to such person. The notice required under this subsection shall be served in the manner provided by law for the service of summons upon the person entitled thereto at least ten days prior to the hearing. In the event that a person entitled to notice under this subsection is a non-resident of the state or cannot after diligent search be found within the state, then:

(a) If the last known place of residence of such person is known, a copy of the notice shall be deposited in the post office, postage prepaid, directed to such person at his last known place of residence.

demands it, may surrender such child to the care and custody of any benevolent society or corporation without the consent of its parents unless within twenty days after the notice of the intention of such commissioners so to do, given in writing to parents, guardian or next of kin of such child so far as known, to said commissioners, such parents, guardian or next of kin shall provide for such child and relieve the county thereof and when any child has been so surrendered by the county commissioners, it may be disposed of as herein provided for the disposition of other children. [1903 c 49 § 3; RRS § 1702.]

Award and adoption of child: RCW 13.04.110.

Commitment of child—Financial support: RCW 13.04.100.

26.37.040 Investigation of neglect—Duty of police. When any officer or agent of any such society shall request a police officer, or other peace officer, to investigate or assist in the investigation of any alleged case of any such neglected or abused child, such officer shall immediately make or assist in such investigation and if he deem it proper shall forthwith take such child into custody without warrant, taking such child and reporting such case at once to the judge of the superior court for such proceedings as may be proper under the provisions of this chapter. [1903 c 49 § 4; RRS § 1703.]

Arrest of juvenile—Hearing: RCW 13.04.120.

Child not to be detained in jail or confined with adult convicts: RCW 13.04.115.

26.37.050 Minor convicted of offense—Rights of parent. When any minor under eighteen years of age shall be convicted on any charge, the punishment for which may be imprisonment or confinement in the reform school, the judge of the superior court, if he finds that the good of such minor demands it, and such minor is an orphan, or a homeless, neglected or abused minor within the terms of this chapter, or is a county charge, or the parents or guardian of such minor consent thereto, may suspend sentence and surrender the custody of such minor to any society, as is contemplated in this chapter, when such society is willing to receive such minor, until such minor shall attain the age of majority, or for a term of years to be fixed in the order of surrender, and such society may find a home for such minor and surrender his custody to the person providing such home for the term fixed in said order of surrender, which surrender by the society shall be approved by an order of said court: *Provided*, That nothing in this section shall be held to affect the natural rights of said minor or of his parents or guardian, except in the matter of his custody; *and provided further*, That if said minor shall fail to conform to the order of court fixing his custody, he may be apprehended and brought before the court, and the court may sentence said minor as provided by law, or resurrender him as the court may deem best for the interests of said minor. [1903 c 49 § 5; RRS § 1704.]

Hearing—Records and reports—Judgment: RCW 13.04.091, 13.04.105.

26.37.060 Society not to act as guardian. Nothing in this chapter shall entitle any such society to act as

guardian or to have control of the estate of any minor child. [1903 c 49 § 6; RRS § 1705.]

26.37.070 Hearing on habeas corpus—Evidence. Upon the hearing of any writ of habeas corpus for the custody of any such child, if it appears that such child has been surrendered to any such corporation under the provisions of this chapter such surrender shall be taken as prima facie evidence that such child was legally and properly surrendered to such corporation and that such corporation is entitled to the custody and control of such child under the provisions of this chapter. [1903 c 49 § 7; RRS § 1706.]

26.37.080 Court costs and child care expense. The board of county commissioners shall pay the expenses of bringing the child before the court and caring for it pending a hearing under this chapter; when a child is surrendered to a benevolent society under the provisions of this chapter by the superior court, the county shall pay such society a reasonable compensation for the temporary care of such child until it is placed in a family but not to exceed fifty dollars in each case. No clerk, sheriff, police officer, member of the board of county commissioners or agent of any such society shall charge or be allowed any costs whatever in these proceedings, except where a complaint shall be adjudged to be without sufficient cause and malicious, in which event all costs shall be taxed against the complainant: *Provided*, That the provisions of this section shall not apply to cases under RCW 26.37.050. [1903 c 49 § 8; RRS § 1707.]

Chapter 26.40 HANDICAPPED CHILDREN

Sections	
26.40.010	Declaration of purpose.
26.40.020	Removal, denial of parental responsibility—Commitment not an admission requirement to any school.
26.40.030	Petition by parent for order of commitment—Grounds.
26.40.040	Petition by parent for order of commitment—Contents—Who may be co-custodians—Effective date.
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26.40.060	Notice, copies, filing of order of commitment.
26.40.070	Petition by parent for rescission, change in co-custodians, determination of parental responsibility.
26.40.080	Health and welfare of committed child—State and co-custodian responsibilities.
26.40.090	Petition by co-custodians for rescission of commitment—Hearing.
26.40.100	Chapter does not affect commitments under other laws.
26.40.110	Lease of buses to transport handicapped children.

Aid to dependent children—Child welfare services—Services to crippled children: Chapter 74.12 RCW.

Child welfare agencies: Chapter 74.15 RCW.

Juvenile courts and delinquents: Title 13 RCW.

Mental illness and hospitalization: Chapter 71.02 RCW.

State institutions: Title 72 RCW.

26.40.010 Declaration of purpose. The purpose of this chapter is to assure the right of every handicapped child to parental love and care as long as possible, to provide for adequate custody of a handicapped child who

has lost parental care, and to make available to the handicapped child the services of the state through its various departments and agencies. [1955 c 272 § 1.]

26.40.020 Removal, denial of parental responsibility—Commitment not an admission requirement to any school. So long as the parents of a handicapped child are able to assume parental responsibility for such child, their parental responsibility may not be removed or denied, and commitment by the state or any officer or official thereof shall never be a requirement for the admission of such child to any state school, or institution, or to the common schools. [1955 c 272 § 2.]

26.40.030 Petition by parent for order of commitment—Grounds. The parents or parent of any child who is temporarily or permanently retarded in normal educational processes and/or normal social adjustment by reason of physical or mental handicap, or by reason of social or emotional maladjustment, or by reason of other handicap, may petition the superior court for the county in which such child resides for an order for the commitment of such child to custody as provided in RCW 26.40.040. [1955 c 272 § 3.]

26.40.040 Petition by parent for order of commitment—Contents—Who may be co-custodians—Effective date. The petition for an order for the commitment of a child to custody shall request the court to issue an order for the commitment of such child to the co-custody of the state and a relative or relatives, a friend or friends, an attorney or attorneys, a church through its chief officers, a fraternal organization through its chief officers, or a service organization through its chief officers, who shall be named in the petition. The petition shall also request the court to issue such order making the commitment of such child to custody effective as of the date that both parents of such child are deceased or are determined by the court to be unable to continue parental responsibilities for such child as provided in RCW 26.40.070. [1955 c 272 § 4.]

26.40.050 Petition by parent for order of commitment—Hearing—Written consent of co-custodians required. Upon the filing of a petition for an order for the commitment of a child to custody, a hearing upon such petition shall be held in open court, and, if the court finds that the petition should be granted, the court shall issue an order for the commitment of the child to custody as petitioned and not otherwise. Written consent of the co-custodians other than the state must be filed with the court before such order for commitment may be issued. [1955 c 272 § 5.]

26.40.060 Notice, copies, filing of order of commitment. Upon the issuance of an order for the commitment of a child to custody, the court shall transmit copies thereof to the co-custodians named therein. For the state as co-custodian the copy of such order shall be filed with the secretary of state whose duty it shall be to notify the state superintendent of public instruction, the

state department of health, the state department of public assistance, and such other state departments or agencies as may have services for the child, of the filing of such order, which notice shall be given by the secretary of state at the time commitment to custody becomes effective under the order. [1955 c 272 § 6.]

26.40.070 Petition by parent for rescission, change in co-custodians, determination of parental responsibility. The parents or parent upon whose petition an order for the commitment of a child to custody has been issued may, before such commitment becomes effective, petition the court for a rescission of the order or for a change in the co-custodians other than the state, or to determine that they are unable to continue parental responsibilities for the child, and the court shall proceed on such petition as on the original petition. [1955 c 272 § 7.]

26.40.080 Health and welfare of committed child—State and co-custodian responsibilities. It shall be the responsibility of the state and the appropriate departments and agencies thereof to discover methods and procedures by which the mental and/or physical health of the child in custody may be improved and, with the consent of the co-custodians, to apply those methods and procedures. The co-custodians other than the state shall have no financial responsibility for the child committed to their co-custody except as they may in written agreement with the state accept such responsibility. At any time after the commitment of such child they may inquire into his well-being, and the state and any of its agencies may do nothing with respect to the child that would in any way affect his mental or physical health without the consent of the co-custodians. The legal status of the child may not be changed without the consent of the co-custodians. If it appears to the state as co-custodian of a child that the health and/or welfare of such child is impaired or jeopardized by the failure of the co-custodians other than the state to consent to the application of certain methods and procedures with respect to such child, the state through its proper department or agency may petition the court for an order to proceed with such methods and procedures. Upon the filing of such petition a hearing shall be held in open court, and if the court finds that such petition should be granted it shall issue the order. [1955 c 272 § 8.]

26.40.090 Petition by co-custodians for rescission of commitment—Hearing. When the co-custodians of any child committed to custody under provisions of this chapter agree that such child is no longer in need of custody they may petition the court for a rescission of the commitment to custody. Upon the filing of such petition a hearing shall be held in open court and if the court finds that such petition should be granted it shall rescind the order of commitment to custody. [1955 c 272 § 9.]

26.40.100 Chapter does not affect commitments under other laws. Nothing in this chapter shall be construed as affecting the authority of the courts to make commitments as otherwise provided by law. [1955 c 272 § 10.]

26.40.110 Lease of buses to transport handicapped children. See RCW 28A.24.110 through 28A.24.112.

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.
26.44.080	Violation—Penalty.
26.44.900	Severability—1975 1st ex.s. c 217.

Child abuse, investigation: RCW 74.13.031.

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 non-accidental 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, step-parents, 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.]

26.44.080 Violation—Penalty. Every person who is required to make, or to cause to be made, a report pursuant to RCW 26.44.030 and 26.44.040, and who knowingly fails to make, or fails to cause to be made, such report, shall be guilty of a misdemeanor. [1971 ex.s. c 167 § 3.]

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

- 27.04 State library.
- 27.08 State certification of librarians.
- 27.12 Public libraries.
- 27.14 Library district local improvement districts.
- 27.16 Educational service district circulating libraries.
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- 27.20 State law library.
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- 27.44 Indian graves and records.
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Chapter 27.04 STATE LIBRARY

Sections

- 27.04.010 Library created.
- 27.04.020 Library commission created—Terms, vacancies, travel expenses.
- 27.04.030 Duties of commission.
- 27.04.035 Duties of commission—Contracts for services to the blind.
- 27.04.040 Library service to be expanded.
- 27.04.050 Duties of librarian.
- 27.04.060 Commission may accept federal funds.
- 27.04.070 Contracts to provide state agencies with library materials, supplies, equipment and personnel.
- 27.04.080 Sale of library materials authorized—Disposition of proceeds.

27.04.010 Library created. There shall be a state library, and a state librarian as the chief executive officer in charge thereof. [1943 c 207 § 1; Rem. Supp. 1943 § 8225-1. Prior: See Reviser's note below.]

Reviser's note: For prior laws on this subject, see: Laws 1929 c 159; 1921 c 7 § 13; 1913 c 72; 1903 c 171; 1901 c 43 and 46; 1893 c 63; 1891 c 37; Code 1881 §§ 2588-2613.

27.04.020 Library commission created—Terms, vacancies, travel expenses. A state library commission is hereby created which shall consist of the superintendent of public instruction, who shall be ex officio chairman of said commission and four commissioners appointed by the governor, one of whom shall be a library trustee at the time of appointment and one a certified librarian actually engaged in library work at the time of appointment. The first appointments shall be for terms of one, two, three and four years respectively, and thereafter one commissioner shall be appointed each year to serve for a four year term. Vacancies shall be filled by appointments for the unexpired terms. Each commissioner shall serve without salary or other compensation for his services, but shall be reimbursed for travel expenses incurred in the actual performance of their duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 66; 1967 c 198 § 1; 1963 c 202 § 1; 1961 c 45 § 1; 1941 c 5 § 1; Rem. Supp. 1941 § 10771-2. Prior: See Reviser's note following RCW 27.04.010.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

27.04.030 Duties of commission. The state library commission shall have charge and control of the state library. It shall appoint a state librarian, who shall hold office at the pleasure of the commission. It may make rules and regulations governing the administration of the library. [1943 c 207 § 2; 1941 c 5 § 2; Rem. Supp. 1943 § 10771-3. Prior: See Reviser's note following RCW 27.04.010.]

27.04.035 Duties of commission—Contracts for services to the blind. The state library commission shall have authority to contract with any public library in the state for that library to render library service to the blind throughout the state. The state library commission shall have authority to reasonably compensate such public library for the cost of the service it renders under such contract. [1955 c 170 § 1.]

State schools for blind and deaf: Chapter 72.40 RCW.
Vocational training: RCW 74.16.180.

27.04.040 Library service to be expanded. In order to provide, expand, enlarge and equalize public library facilities and services and thereby promote and stimulate interest in reading throughout the entire state, the state library commission shall, from time to time, make studies and surveys of public library needs and adopt rules and regulations for the allocation of money to public

libraries to be expended on vouchers approved by the commission. [1945 c 232 § 1; Rem. Supp. 1945 § 10771-4. Prior: See Reviser's note following RCW 27.04.010.]

27.04.050 Duties of librarian. The state librarian is authorized, subject to any limitations and conditions imposed by the state library commission, to acquire by purchase, exchange, gift or otherwise library material, equipment and supplies and employ such assistance as is needed for the operation, growth and development of the library and to make rules and regulations governing the use of the library and the material therein. [1943 c 207 § 3; Rem. Supp. 1943 § 8225-2. Prior: See Reviser's note following RCW 27.04.010.]

Duties of state librarian as to public documents: RCW 40.04.020.

27.04.060 Commission may accept federal funds. The state library commission is hereby authorized to accept and to expend in accordance with the terms thereof any grant of federal funds which may become available to the state for library purposes. For the purpose of qualifying to receive such grants, the state library commission is authorized to make such applications and reports as may be required by the federal government as a condition thereto. [1949 c 39 § 1; Rem. Supp. 1949 § 8216-1. Prior: See Reviser's note following RCW 27.04.010.]

27.04.070 Contracts to provide state agencies with library materials, supplies, equipment and personnel. The state library is authorized, subject to any limitations and conditions imposed by the state library commission, to contract with any agency of the state of Washington for the purpose of providing library materials, supplies, equipment and employing assistants as needed for the development, growth and operation of any library facilities or services of such agency. [1967 c 67 § 1.]

27.04.080 Sale of library materials authorized—Disposition of proceeds. See RCW 27.12.305.

Chapter 27.08

STATE CERTIFICATION OF LIBRARIANS

Sections

- 27.08.010 State librarians' certification board created—Powers—Certificate fee—Expenses of board—Certified librarians required.
27.08.045 Funds for payment of expenses.

27.08.010 State librarians' certification board created—Powers—Certificate fee—Expenses of board—Certified librarians required. (1) There is hereby created a state board for the certification of librarians, which shall consist of the state librarian, the executive officer of the department of librarianship of the University of Washington, and one other member to be appointed by the governor for a term of three years from a list of three persons nominated by the executive committee of the Washington library association. The members of the board shall serve without salary, shall have authority to establish rules and regulations for their own government and procedure, and shall prescribe and

hold examinations to test the qualifications of those seeking certificates as librarians.

(2) The board shall grant librarians' certificates without examination to applicants who are graduates of library schools accredited by the American library association for general library training, and shall grant certificates to other applicants when it has satisfied itself by examination that the applicant has attainments and abilities equivalent to those of a library school graduate and is qualified to carry on library work ably and efficiently.

(3) Any person not a graduate of a library school accredited by the American library association, but who has served as a librarian or a full time professional assistant in any library in this state for at least one year or the equivalent thereof prior to midnight, June 12, 1935, shall be granted a librarian's certificate without examination, but such certificate shall be good only for the position specified therein, unless specifically extended by the board.

(4) The board shall require a fee of not less than one dollar nor more than five dollars to be paid by each applicant for a librarian's certificate. Money paid as fees shall be deposited with the state treasurer. All necessary expenses of the board shall be paid from funds appropriated by the legislature upon the presentation of proper vouchers approved by the board.

(5) After January 1, 1937, a library serving a community having over four thousand population shall not have in its employ, in the position of librarian or in any other full time professional library position, a person who does not hold a librarian's certificate issued by the board.

(6) A full time professional library position, as intended by this section, is one that requires, in the opinion of the state board for the certification of librarians, a knowledge of books and of library technique equivalent to that required for graduation from an accredited library school.

(7) The provisions in this section shall apply to every library serving a community having over four thousand population and to every library operated by the state or under its authority, including libraries of institutions of higher learning: *Provided*, That nothing in this section shall apply to the state law library or to county law libraries. [1973 c 106 § 12; 1935 c 119 § 11; RRS § 8226-11. Formerly RCW 27.08.010, 27.08.020, 27.08-.030, 27.08.040 and 27.08.050.]

27.08.045 Funds for payment of expenses. The expenses provided for in RCW 27.08.010(4) for the state board for the certification of librarians shall be paid from any funds appropriated and available for the use of the state library commission. [1955 c 295 § 1.]

Chapter 27.12 PUBLIC LIBRARIES

Sections

- 27.12.010 Definitions.
27.12.020 Policy of state.
27.12.025 Authorization.
27.12.030 Libraries, how established.

- 27.12.040 Rural library districts—Establishment.
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27.12.010 Definitions. As used in *this act, unless the context requires a different meaning:

(1) "Governmental unit" means any county, city, town, rural county library district or intercounty rural library district;

(2) "Legislative body" means the body authorized to determine the amount of taxes to be levied in a governmental unit; in rural county library districts and in intercounty rural library districts the legislative body shall be the board of library trustees of the district;

(3) "Library" means a free public library supported in whole or in part with money derived from taxation; and

(4) "Regional library" means a free public library maintained by two or more counties or other governmental units; and

(5) "Rural county library district" means a library serving all the area of a county not included within the area of incorporated cities and towns; and

(6) "Intercounty rural library district" means a municipal corporation organized to provide library service for all areas outside of incorporated cities and towns within two or more counties. [1965 c 122 § 1; 1947 c 75 § 10; 1941 c 65 § 1; 1935 c 119 § 2; Rem. Supp. 1947 § 8226-2.]

*Reviser's note: Term "this act" was first used in basic act, 1935 c 119 and appeared in subsequent amendments. Chapter 119, Laws of 1935 was codified in RCW 27.08.010, 27.12.010 through 27.12.080, 27.12.180 through 27.12.210, 27.12.230 through 27.12.280 and 27.12.290 through 27.12.340.

27.12.020 Policy of state. It is hereby declared to be the policy of the state, as a part of its provision for public education, to promote the establishment and development of public library service throughout its various subdivisions. [1935 c 119 § 1; RRS § 8226-1. FORMER PART OF SECTION: 1941 c 65 § 2; 1935 c 119 § 3; Rem. Supp. 1941 § 8226-3 now codified as RCW 27.12.025.]

27.12.025 Authorization. Any governmental unit has power to establish and maintain a library, either by itself or in cooperation with one or more other governmental units. [1941 c 65 § 2; 1935 c 119 § 3; Rem. Supp. 1941 § 8226-3. Formerly RCW 27.12.020, part.]

27.12.030 Libraries, how established. A library may be established in any county, city, or town either (1) by its legislative body of its own initiative; or (2) upon the petition of one hundred taxpayers of such a governmental unit, the legislative body shall submit to a vote of the qualified electors thereof, at the next municipal or special election held therein (in the case of a city or town) or the next general election or special election held therein (in the case of a county), the question whether a library shall be established; and if a majority of the electors voting on the question vote in favor of the establishment of a library, the legislative body shall forthwith establish one. [1965 c 122 § 2; 1941 c 65 § 3; 1935 c 119 § 4; Rem. Supp. 1941 § 8226-4. Prior: 1915 c 12 § 1; 1913 c 123 § 1; 1909 c 116 § 1; 1901 c 166 § 1.]

27.12.040 Rural library districts—Establishment. The procedure for the establishment of a rural county library district shall be as follows:

(1) Petitions signed by at least ten percent of the registered voters of the county, outside of the area of incorporated cities and towns, asking that the question, "Shall a rural county library district be established?" be submitted to a vote of the people, shall be filed with the board of county commissioners.

(2) The board of county commissioners, after having determined that the petitions were signed by the requisite number of qualified petitioners, shall place the proposition for the establishment of a rural county library district on the ballot for the vote of the people of the county, outside incorporated cities and towns, at the next succeeding general or special election.

(3) If a majority of those voting on the proposition vote in favor of the establishment of the rural county library district, the board of county commissioners shall

forthwith declare it established. [1955 c 59 § 4. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Dissolution—Disposition of property: RCW 27.12.320.

27.12.050 Rural library districts—Board of library trustees—Tax levies. After the board of county commissioners has declared a rural county library district established, it shall appoint a board of library trustees and provide funds for the establishment and maintenance of library service for the district by making a tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year sufficient for the library service as shown to be required by the budget submitted to the board of county commissioners by the board of library trustees, and by making a tax levy in such further amount as shall be authorized pursuant to RCW 27.12.222 or RCW 84.52.052 or 84.52.056. Such levies shall be a part of the general tax roll and shall be collected as a part of the general taxes against the property in the district. [1973 1st ex.s. c 195 § 5; 1955 c 59 § 5. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Budget for capital outlays—Accumulation of funds: RCW 27.12.220.

Capital outlays—Bonds—Excess levies: RCW 27.12.222.

27.12.060 Rural library districts—Indebtedness—Coupon warrants. The board of library trustees of this district may contract indebtedness, and evidence it by issuing and selling, at par plus accrued interest not exceeding six percent a year, coupon warrants of the district in such form as the board of library trustees shall determine. Such warrants may be issued in advance of the tax levy. Such warrants, signed by the chairman and the secretary of the board of library trustees, shall be payable at such times as the board of library trustees shall provide not longer than six years from the date thereof.

The warrants shall be payable to bearer, shall have interest coupons attached providing for the payment of interest semiannually on the first day of January and of July, and the issuance thereof shall be recorded in the office of the county treasurer in a book kept for that purpose. All district warrants of every kind shall outlaw and become void after six years from their maturity date but only if there is money in the proper fund available for their payment within such period.

A rural county library district shall be a public corporation with such powers as are necessary to carry out its functions and for taxation purposes shall have the power vested in municipal corporations for such purposes. [1955 c 59 § 6. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

27.12.070 Rural library districts—Limitation of indebtedness. At no time shall the total indebtedness of the district exceed an amount that could be raised by a

one dollar per thousand dollars of assessed value levy on the then existing value of the taxable property of the district, as the term "value of the taxable property" is defined in RCW 39.36.015, except as provided in RCW 27.12.222 or RCW 84.52.052 or 84.52.056. The county treasurer of the county in which any rural county library district is created shall receive and disburse all district revenues and collect all taxes levied under this chapter. [1973 1st ex.s. c 195 § 6; 1970 ex.s. c 42 § 2; 1955 c 59 § 7. Prior: 1947 c 75 § 11, part; 1943 c 251 § 1, part; 1941 c 65 § 4, part; Rem. Supp. 1947 § 8226-4a, part.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Annual appropriations—Control of expenditures: RCW 27.12.240.

Capital outlays—Bonds—Excess levies: RCW 27.12.222.

27.12.079 Disincorporation of district located in class A or AA county and inactive for five years. See chapter 57.90 RCW.

27.12.080 Regional libraries. Two or more counties, or other governmental units, by action of their legislative bodies, may join in establishing and maintaining a regional library under the terms of a contract to which all will agree. The expenses of the regional library shall be apportioned between or among the contracting parties concerned on such basis as shall be agreed upon in the contract. The treasurer of one of the governmental units, as shall be provided in the contract, shall have the custody of the funds of the regional library; and the treasurers of the other governmental units concerned shall transfer quarterly to him all moneys collected for free public library purposes in their respective governmental units. If the legislative body of any governmental unit decides to withdraw from a regional library contract, the governmental unit withdrawing shall be entitled to a division of the property on the basis of its contributions. [1941 c 65 § 5; 1935 c 119 § 5; Rem. Supp. 1941 § 8226-5.]

27.12.090 Intercounty rural library districts—Establishment. Intercounty rural library districts may be established to provide throughout several counties free public library service similar to that provided within a single county by a rural county library district. [1947 c 75 § 1; Rem. Supp. 1947 § 8246-1.]

Dissolution—Disposition of property: RCW 27.12.320.

27.12.100 Intercounty rural library districts—Establishment—Procedure. An intercounty rural library district shall be established by joint action of two or more counties proceeding by either of the following alternative methods:

(1) The boards of county commissioners of any two or more counties shall adopt identical resolutions proposing the formation of such a district to include all of the areas outside of incorporated cities or towns in such counties as may be designated in such resolutions. In lieu of such resolutions a petition of like purport signed by ten percent of the registered voters residing outside of

incorporated cities or towns of a county, may be filed with the county auditor thereof, and shall have the same effect as a resolution. The proposition for the formation of the district as stated on the petition shall be prepared by the attorney general upon request of the state library commission. Action to initiate the formation of such a district shall become ineffective in any county if corresponding action is not completed within one year thereafter by each other county included in such proposal. The county auditor in each county shall check the validity of the signatures on the petition and shall certify to the board of county commissioners the sufficiency of the signatures. If each petition contains the signatures of ten percent of the registered voters residing outside the incorporated cities and towns of the county, each board of county commissioners shall pass a resolution calling an election for the purpose of submitting the question to the voters and setting the date of said election. When such action has been taken in each of the counties involved, notification shall be made by each board of county commissioners to the board of county commissioners of the county having the largest population according to the last federal census, who shall give proper notification to each county auditor. At the next general or special election held in the respective counties there shall be submitted to the voters in the areas outside of incorporated cities and towns a question as to whether an intercounty rural library district shall be established as outlined in the resolutions or petitions. Notice of said election shall be given the county auditor pursuant to RCW 29.27.080. The county auditor shall provide for the printing of a separate ballot and shall provide for the distribution of ballots to the polling places pursuant to RCW 29.04.020. The county auditor shall instruct the election boards in split precincts. The respective county canvassing boards in each county to be included within the intercounty rural library district shall canvass the votes and certify the results to the county auditor pursuant to chapter 29.62 RCW; the result shall then be certified by each county auditor to the county auditor of the county having the largest population according to the last federal census. If a majority of the electors voting on the proposition in each of the counties affected shall vote in favor of such district it shall thereby become established, and the board of county commissioners of the county having the largest population according to the last federal census shall declare the intercounty rural library district established. If two or more of the counties affected are in an existing intercounty rural library district, then the electors in areas outside incorporated cities and towns in those counties shall vote as a unit and the electors in areas outside incorporated cities and towns in each of the other affected counties shall vote as separate units. If a majority of the electors voting on the proposition in the existing district and a majority of the voters in any of the other affected counties shall vote in favor of an expanded intercounty rural library district it shall thereby become established.

(2) The county commissioners of two or more counties meeting in joint session attended by a majority of the county commissioners of each county may, by majority

vote of those present, order the establishment of an intercounty rural library district to include all of the area outside of incorporated cities and towns in as many of the counties represented at such joint meeting as shall be determined by resolution of such joint meeting. If two or more counties are in an existing intercounty rural library district, then a majority vote of all of the commissioners present from those counties voting as a unit, and a majority vote of the commissioners present from any other county shall cause the joint session to order the establishment of an expanded intercounty rural library district. No county, however, shall be included in such district if a majority of its county commissioners vote against its inclusion in such district. [1965 c 63 § 1; 1961 c 82 § 1; 1947 c 75 § 2; Rem. Supp. 1947 § 8246-2.]

27.12.110 Intercounty rural library districts—
Expansion of existing districts. An existing rural county library district may be expanded into an intercounty rural library district or an established intercounty rural library district may be expanded to include additional counties by joint action of all counties included in the proposed expanded district taken in the same manner as prescribed for the initiation of an intercounty rural library district. [1947 c 75 § 3; Rem. Supp. 1947 § 8246-3.]

27.12.120 Intercounty rural library districts—
Assumption of property, assets, liabilities. All property, assets and liabilities of preexisting library districts within the area included in an intercounty rural library district shall pass to and be assumed by an intercounty rural library district: *Provided*, That where within any intercounty rural library district heretofore or hereafter organized under the provisions of this chapter a preexisting library district had incurred a bonded indebtedness which was outstanding at the time of the formation of the intercounty rural library district, such preexisting library district shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of said formation has been paid in full: *Provided further*, That a special election may be called by the board of trustees of the intercounty rural library district, to be held at the next general or special election held in the respective counties for the purpose of affording the voters residing within the area outside of the preexisting library district an opportunity to assume the obligation of the bonded indebtedness of the preexisting library district or the question may be submitted to the voters as a separate proposition at the election on the proposal for the formation of the intercounty rural library district. [1961 c 82 § 2; 1947 c 75 § 4; Rem. Supp. 1947 § 8246-4.]

27.12.130 Intercounty rural library districts—
Board of trustees. Immediately following the establishment of an intercounty rural library district the boards of county commissioners of the counties affected shall jointly appoint a board of five or seven trustees for the district in accordance with RCW 27.12.190. The board

of trustees shall appoint a librarian for the district. [1959 c 133 § 1; 1947 c 75 § 5; Rem. Supp. 1947 § 8246-5.]

27.12.140 Intercounty rural library districts—Name may be adopted. The board of trustees of an intercounty rural library district may adopt a name by which the district shall be known and under which it shall transact all of its business. [1947 c 75 § 6; Rem. Supp. 1947 § 8246-6.]

27.12.150 Intercounty rural library districts—Tax levies. Funds for the establishment and maintenance of the library service of the district shall be provided by the boards of county commissioners of the respective counties by means of an annual tax levy on the property in the district of not more than fifty cents per thousand dollars of assessed value per year. The tax levy in the several counties shall be at a uniform rate and shall be based on a budget to be compiled by the board of trustees of the intercounty rural library district who shall determine the uniform tax rate necessary and certify their determination to the respective boards of county commissioners.

Excess levies authorized pursuant to RCW 27.12.222 and RCW 84.52.052 or 84.52.056 shall be at a uniform rate which uniform rate shall be determined by the board of trustees of the intercounty rural library district and certified to the respective boards of county commissioners. [1973 1st ex.s. c 195 § 7; 1955 c 59 § 8; 1947 c 75 § 7; Rem. Supp. 1947 § 8246-7.]

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

Budget for capital outlays—Accumulation of funds: RCW 27.12.220.

Capital outlays—Bonds—Excess levies: RCW 27.12.222.

27.12.160 Intercounty rural library districts—District treasurer. The board of trustees of an intercounty rural library district shall designate the county treasurer of one of the counties included in the district to act as treasurer for the district. All moneys raised for the district by taxation within the participating counties or received by the district from any other sources shall be paid over to him, and he shall disburse the funds of the district upon warrants drawn thereon by the auditor of the county to which he belongs pursuant to vouchers approved by the trustees of the district. [1947 c 75 § 8; Rem. Supp. 1947 § 8246-8.]

Annual expenditures—Control of appropriations: RCW 27.12.240.

27.12.170 Intercounty rural library districts—Powers of board—Procedures. Except as otherwise specifically provided intercounty rural library districts and the trustees thereof shall have the same powers as are prescribed by RCW 27.12.040 through 27.12.070, for rural county library districts and shall follow the same procedures and be subject to the same limitations as are provided therein with respect to the contracting of indebtedness. [1947 c 75 § 9; Rem. Supp. 1947 § 8246-9.]

27.12.180 Contracts for library service. Instead of establishing or maintaining an independent library, the legislative body of any governmental unit authorized to maintain a library shall have power to contract to receive library service from an existing library, the board of trustees of which shall have reciprocal power to contract to render the service with the consent of the legislative body of its governmental unit. Such a contract shall require that the existing library perform all the functions of a library within the governmental unit wanting service. In like manner a legislative body may contract for library service from a library not owned by a public corporation but maintained for free public use: *Provided*, That such a library be subject to inspection by the state librarian and be certified by him as maintaining a proper standard. Any school district may contract for school library service from any existing library, such service to be paid for from funds available to the school district for library purposes. [1941 c 65 § 6; 1935 c 119 § 7; Rem. Supp. 1941 § 8226-7.]

27.12.190 Library trustees—Appointment, election, removal, compensation. The management and control of a library shall be vested in a board of either five or seven trustees as hereinafter in this section provided. In cities and towns five trustees shall be appointed by the mayor with the consent of the legislative body. In counties and rural county library districts five trustees shall be appointed by the board of county commissioners. In a regional library district a board of either five or seven trustees shall be appointed by the joint action of the legislative bodies concerned. In intercounty rural library districts a board of either five or seven trustees shall be appointed by the joint action of the boards of county commissioners of each of the counties included in a district. The first appointments for boards comprised of but five trustees shall be for terms of one, two, three, four, and five years respectively, and thereafter a trustee shall be appointed annually to serve for five years. The first appointments for boards comprised of seven trustees shall be for terms of one, two, three, four, five, six, and seven years respectively, and thereafter a trustee shall be appointed annually to serve for seven years. No person shall be appointed to any board of trustees for more than two consecutive terms. Vacancies shall be filled for unexpired terms as soon as possible in the manner in which members of the board are regularly chosen. A library trustee shall not receive a salary or other compensation for services as trustee, but necessary expenses actually incurred shall be paid from the library funds. A library trustee in the case of a city or town may be removed only by vote of the legislative body. A trustee of a county library or a rural county library district library may be removed by the county commissioners after a public hearing upon a written complaint stating the ground for removal, which complaint, with a notice of the time and place of hearing, shall have been served upon the trustee at least fifteen days before the hearing. A trustee of an intercounty rural library district may be removed by the joint action of the board of county commissioners of the counties involved in the same manner as provided herein for the removal of a trustee of a

county library. [1965 c 122 § 3; 1959 c 133 § 2; 1947 c 75 § 12; 1941 c 65 § 7; 1939 c 108 § 1; 1935 c 119 § 8; Rem. Supp. 1947 § 8226-8. Prior: 1915 c 12 § 2; 1909 c 116 § 4; 1901 c 166 § 4. Formerly RCW 27.12.190 and 27.12.200.]

27.12.210 Library trustees—Organization—Bylaws—Powers and duties. The trustees, immediately after their appointment or election, shall meet and organize by the election of such officers as they deem necessary. They shall:

(1) Adopt such bylaws, rules, and regulations for their own guidance and for the government of the library as they deem expedient;

(2) Have the supervision, care, and custody of all property of the library, including the rooms or buildings constructed, leased, or set apart therefor;

(3) Employ a librarian, and upon his recommendation employ such other assistants as may be necessary, all in accordance with the provisions of RCW 27.08.010, prescribe their duties, fix their compensation, and remove them for cause;

(4) Submit annually to the legislative body a budget containing estimates in detail of the amount of money necessary for the library for the ensuing year; except that in a rural county library district the board of library trustees shall prepare its budget, certify the same and deliver it to the board of county commissioners in ample time for it to make the tax levies for the purpose of the district;

(5) Have exclusive control of the finances of the library;

(6) Accept such gifts of money or property for library purposes as they deem expedient;

(7) Lease or purchase land for library buildings;

(8) Lease, purchase, or erect an appropriate building or buildings for library purposes, and acquire such other property as may be needed therefor;

(9) Purchase books, periodicals, maps, and supplies for the library; and

(10) Do all other acts necessary for the orderly and efficient management and control of the library. [1941 c 65 § 8; 1935 c 119 § 9; Rem. Supp. 1941 § 8226-9. Prior: 1909 c 116 § 5; 1901 c 166 § 5.]

27.12.220 Rural and intercounty districts—Budget for capital outlays—Accumulation of funds. The trustees of any rural county library district or any intercounty rural library district may include in the annual budget of such district an item for the accumulation during such year of a specified sum of money to be expended in a future year for the acquisition, enlargement or improvement of real or personal property for library purposes. [1947 c 22 § 1; Rem. Supp. 1947 § 8246a.]

27.12.222 Rural and intercounty districts—Bonds—Excess levies. In addition to the indebtedness authorized by RCW 27.12.150 and 27.12.070, rural county library districts and intercounty rural library districts may incur indebtedness for capital purposes to the full extent permitted by the Constitution and may issue

general obligation bonds to pay therefor not to exceed an amount equal to one-half of one percent of the value of the taxable property within the district, as the term "value of the taxable property" is defined in RCW 39.36.015. Any such indebtedness shall be authorized by resolution of the board of library trustees, and the board of library trustees shall submit the question to the qualified electors of the district for their ratification or rejection whether or not such indebtedness shall be incurred and such bonds issued. Such proposition to be effective must be authorized by an affirmative vote of three-fifths of the electors within the district voting at a general or special election to be held for the purpose of authorizing such indebtedness and bond issue at which election the number of persons voting on the proposition shall constitute not less than forty percent of the total number of votes cast in such taxing district at the last preceding general election. If the voters shall so authorize, the district may levy annual taxes in excess of normal legal limitations to pay the principal and interest upon such bonds as they shall become due. The excess levies mentioned in this section or in RCW 84.52.052 or 84.52.056 may be made notwithstanding anything contained in RCW 27.12.050, 27.12.070 or 27.12.150 or any other statute pertaining to such library districts. [1970 ex.s. c 42 § 3; 1955 c 59 § 1.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

27.12.223 Bonds—Form—Sale—Security for deposit. Bonds authorized by RCW 27.12.222 shall be serial in form and maturity and numbered from one upward consecutively. Only bond No. 1 of any issue shall be of a denomination other than a multiple of one hundred dollars. The resolution authorizing the issuance of the bonds shall fix the rate of interest the bonds shall bear, and the place and date of payment of principal and interest. The bonds shall be signed by the chairman of the board of library trustees and attested by the secretary. Coupons in lieu of being signed may bear the facsimile signature of such officers. Bonds shall be sold in such manner as the board of library trustees deems for the best interests of the district. All such bonds shall be legal securities for any bank or trust company for deposit with the state treasurer or any county or city treasurer as security for deposits in lieu of a surety bond under any law relating to deposits of public moneys. [1970 ex.s. c 56 § 6; 1969 ex.s. c 232 § 4; 1955 c 59 § 2.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Savings—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

27.12.240 Annual appropriations—Control of expenditures. After a library shall have been established or library service contracted for, the legislative body of the governmental unit for which the library was established or the service engaged, shall appropriate money annually for the support of the library. All funds for the library, whether derived from taxation or otherwise,

shall be in the custody of the treasurer of the governmental unit, and shall be designated by him in some manner for identification, and shall not be used for any but library purposes. The board of trustees shall have the exclusive control of expenditures for library purposes subject to any examination of accounts required by the state and money shall be paid for library purposes only upon vouchers of the board of trustees, without further audit. The board shall not make expenditures or incur indebtedness in any year in excess of the amount of money appropriated and/or available for library purposes. [1965 c 122 § 4; 1941 c 65 § 9; 1939 c 108 § 3; 1935 c 119 § 10; Rem. Supp. 1941 § 8226-10. Prior: 1909 c 116 § 3; 1901 c 166 § 3. Formerly RCW 27.12-.240 and 27.12.250.]

27.12.260 Annual report of trustees. At the close of each year the board of trustees of every library shall make a report to the legislative body of the governmental unit wherein the board serves, showing the condition of their trust during the year, the sums of money received for the library fund from taxes and other sources, the sums of money expended and the purposes of the expenditures, the number of books and periodicals on hand, the number added during the year, the number retired, the number loaned out, and such other statistics and information and such suggestions as they deem of public interest. A copy of this report shall be filed with the state librarian. [1935 c 119 § 12; RRS § 8226-12. Prior: 1909 c 116 § 8; 1901 c 166 § 8.]

27.12.270 Rules and regulations—Free use of libraries. Every library established or maintained under *this act shall be free for the use of the inhabitants of the governmental unit in which it is located, subject to such reasonable rules and regulations as the trustees find necessary to assure the greatest benefit to the greatest number, except that the trustees may charge a reasonable fee for the use of certain duplicate copies of popular books. [1935 c 119 § 13; RRS § 8226-13. Prior: 1909 c 116 § 9, part; 1901 c 166 § 9, part.]

*Reviser's note: "this act", see note following RCW 27.12.010.

27.12.280 Use by nonresidents—Exchange of books. The board of trustees of a library, under such rules and regulations as it may deem necessary and upon such terms and conditions as may be agreed upon, may allow nonresidents of the governmental unit in which the library is situated to use the books thereof, and may make exchanges of books with any other library, either permanently or temporarily. [1935 c 119 § 14; RRS § 8226-14. Prior: 1909 c 116 § 10; 1901 c 166 § 10.]

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.]

27.12.290 Violators may be excluded. A board of library trustees may exclude from the use of the library under its charge any person who wilfully and persistently violates any rule or regulation prescribed for the use of the library or its facilities or any person whose physical condition is deemed dangerous or offensive to other library users. [1935 c 119 § 15; RRS § 8226-15. Prior: 1909 c 116 § 9, part; 1901 c 166 § 9, part.]

27.12.300 Gifts—Title to property. The title to money or property given to or for the use or benefit of a library shall vest in the board of trustees, to be held and used according to the terms of the gift. [1935 c 119 § 18; RRS § 8226-18. Prior: 1909 c 116 § 20; 1901 c 166 § 20.]

27.12.305 Sale of library materials authorized—Disposition of proceeds. Any public library, including the state library created pursuant to chapter 27.04 RCW, shall have the authority to provide for the sale of library materials developed by the library staff for its use but which are of value to others such as book catalogs, books published by the library, indexes, films, slides, book lists, and similar materials.

The library commission, board of library trustees, or other governing authority charged with the direct control of a public library shall determine the prices and quantities of materials to be prepared and offered for sale. Prices shall be limited to the publishing and preparation costs, exclusive of staff salaries and overhead. Any moneys received from the sales of such materials shall be placed in the appropriate library fund.

Nothing in this section shall be construed to authorize any library to charge any resident for a library service nor to authorize any library to sell materials to a branch library or library which is part of a depository library system when such materials may be distributed free of cost to such library nor shall this section be construed to prevent, curtail, or inhibit any free distribution programs or exchange programs between libraries or between libraries and other agencies. [1972 ex.s. c 90 § 1.]

27.12.310 Charter provisions superseded. Every existing free public library shall be considered as if established under *this act, and the board of trustees and the legislative body of the governmental unit in which the library is located shall proceed forthwith to make such changes as may be necessary to effect compliance with the terms hereof; and every existing contract for library service shall continue in force and be subject to *this act until the contract be terminated or a library be established by the governmental unit for which the service was engaged. The provisions of *this act shall be construed as superseding the provisions of

any municipal charter in conflict herewith. [1935 c 119 § 19; RRS § 8226-19.]

*Reviser's note: "this act", see note following RCW 27.12.010.

27.12.320 Dissolution—Disposition of property. A library established or maintained under *this act (except a regional or a rural county library district library or an intercounty rural library district library) may be abolished only in pursuance of a vote of the electors of the governmental unit in which the library is located, taken in the manner prescribed in RCW 27.12.030 for a vote upon the establishment of a library. If a library of a city or town be abolished, the books and other printed or written matter belonging to it shall go to the library of the county whereof the municipality is a part, if there be a county library, but if not, then to the state library. If a library of a county or region be abolished, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct.

After a rural county library district or an intercounty rural library district has been in operation for three or more years, it may be dissolved pursuant to a majority vote of all of the qualified electors residing outside of incorporated cities and towns voting upon a proposition for its dissolution, at a general election, which proposition may be placed upon the ballot at any such election whenever a petition by ten percent or more qualified voters residing outside of incorporated cities or towns within a rural county library district or an intercounty rural library district requesting such dissolution shall be filed with the board of trustees of such district not less than ninety days prior to the holding of any such election. If a rural county library district is dissolved, the books and other printed matter belonging to it shall go to the state library. All other library property shall be disposed of as the legislative body of the governmental unit shall direct. When an intercounty rural library district is dissolved, the books, funds and other property thereof shall be divided among the participating counties in the most equitable manner possible as determined by the state librarian, who shall give consideration to such items as the original source of property, the amount of funds raised from each county by the district, and the ability of the counties to make further use of such property or equipment for library purposes. Printed material which the state librarian finds will not be used by any of the participating counties for further library purposes shall be turned over to the state library. [1965 c 122 § 5; 1947 c 75 § 13; 1935 c 119 § 20; Rem. Supp. 1947 § 8226-20. Prior: 1909 c 116 § 19; 1901 c 166 § 19.]

*Reviser's note: "this act", see note following RCW 27.12.010.

27.12.321 School district public libraries abolished—Disposition of assets. School district public libraries organized under chapter 119, Laws of 1935, as amended prior to *this 1965 amendatory act, are hereby abolished as of January 1, 1966.

All assets belonging to any school district public library abolished by this section shall go to the rural

county library district of the county in which the school district public library is located. [1965 c 122 § 6.]

*Reviser's note: "this 1965 amendatory act" included in addition to RCW 27.12.321 above, amendments to RCW 27.12.010, 27.12.030, 27.12.190, 27.12.240 and 27.12.320 and the repeal of RCW 27.12.230.

27.12.330 Penalty for injury to property. Whoever intentionally injures, defaces, or destroys any property belonging to or deposited in any public library, reading room, or other educational institution, shall be guilty of a misdemeanor. [1935 c 119 § 16; RRS § 8226-16. Prior: 1909 c 116 § 11; 1901 c 166 § 11.]

27.12.340 Penalty for wilfully retaining books. Whoever wilfully retains any book, newspaper, magazine, pamphlet, manuscript, or other property belonging in or to any public library, reading room, or other educational institution, for thirty days after notice in writing to return the same, given after the expiration of the time that by the rules of such institution such article or other property may be kept, shall be guilty of a misdemeanor. [1935 c 119 § 17; RRS § 8226-17. Prior: 1909 c 116 § 12; 1901 c 166 § 12.]

27.12.350 Executory conditional sales contracts for purchase of property—Limit on indebtedness—Election, when. See RCW 39.30.010.

Chapter 27.14

LIBRARY DISTRICT LOCAL IMPROVEMENT DISTRICTS

Sections	
27.14.010	Definitions.
27.14.015	"Owner", "reputed owner"—Sufficiency of signatures.
27.14.020	Petition or resolution method authorized—Procedure—Assessments.
27.14.030	Resolution of intention—Publication—Notice to property owners.
27.14.035	Hearing—Boundaries—Protests—Divestment of jurisdiction—Powers and duties pursuant to finding for formation.
27.14.040	Subsequent proceedings to be in accordance with sewer district law.
27.14.050	Chapter may be used in conjunction with regional agreements.

27.14.010 Definitions. As used in this chapter: "Library district" means a rural county library district, or intercounty rural library district. [1961 c 162 § 1.]

27.14.015 "Owner", "reputed owner"—Sufficiency of signatures. Whenever the terms "owner" or "reputed owner" of property are used in this chapter, such terms shall include the following:

(1) The signature of a record owner, as determined by the records of the county auditor, shall be sufficient without the signature of his or her spouse.

(2) In the case of mortgaged property, the signature of the mortgagor shall be sufficient.

(3) In the case of property purchased on contract, the signature of the contract purchaser, as shown by the records of the county auditor, shall be deemed sufficient.

(4) Any officer of a corporation owning land in the district duly authorized to execute deeds or encumbrances on behalf of the corporation may sign on behalf of such corporation, provided that there shall be attached to the petition a certified excerpt from the bylaws showing such authority.

(5) If any property in the district stands in the name of a deceased person or any person for whom a guardian has been appointed the signature of the executor, administrator or guardian, as the case may be, shall be equivalent to the signature of the owner of the property. [1963 c 80 § 5.]

27.14.020 Petition or resolution method authorized—Procedure—Assessments. In any instance where the acquisition of land, buildings or capital equipment, or the construction of library buildings are of special benefit to part or all of the lands in the district, the governing board of the library district shall have authority to include such lands in a local improvement district, 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 such improvements ordered in such library district. For the purposes of this chapter, the duties devolving upon the city treasurer under said laws are imposed upon the county treasurer serving the library district. Such local improvement districts may be initiated either by resolution of the governing board of the library district or by petition signed by the owners, according to the records of the office of the county auditor, of at least fifty-one percent of the area of the land within the local improvement district to be created excluding all federally owned or other nonassessable property.

In case the governing board of the library district shall desire to initiate the formation of a local improvement district by resolution, it shall first pass a resolution declaring its intention to order such improvement, setting forth the nature and territorial extent of such proposed improvement, designating the number of the proposed district, describing the boundaries thereof, stating the estimated cost and expenses of the improvement and the proportionate amount thereof which will be borne by the property within the proposed district, and fixing a date, time and place for a public hearing on the formation of the proposed district.

In case any such local improvement district shall be initiated by petition, such petition shall set forth the nature and territorial extent of such proposed improvement and the fact that the signers thereof are the owners according to the records of the county auditor of at least fifty-one percent of the area of land within the limits of the local improvement district to be created excluding all federally owned or other nonassessable property. Upon the filing of such petition with the secretary of the board of trustees of the library district, the board shall determine whether the same shall be sufficient, and the board's determination thereof shall be conclusive upon all persons. No person shall withdraw his name from said petition after the filing thereof with the secretary of

the board of trustees. If the board shall find the petition to be sufficient, it shall proceed to adopt a resolution declaring its intention to order the improvement petitioned for, setting forth the nature and territorial extent of said improvement, designating the number of the proposed local districts describing the boundaries thereof, stating the estimated cost and expense of the improvement and the proportionate amount thereof which will be borne by the property within the proposed local district, and fixing a date, time and place for a public hearing on the formation of the proposed local district. [1963 c 80 § 1; 1961 c 162 § 2.]

27.14.030 Resolution of intention—Publication—Notice to property owners. The resolution of intention, whether adopted on the initiative of the board or pursuant to a petition of the property owners, shall be published in at least two consecutive issues of a newspaper of general circulation in the proposed local district, the date of the first publication to be at least fifteen days prior to the date fixed by such resolution for hearing before the board of library trustees. Notice of the adoption of the resolution of intention shall be given each owner or reputed owner of any lot, tract, parcel of land or other property within the proposed improvement district by mailing said notice at least fifteen days before the date fixed for the public hearing to the owner or reputed owner of the property as shown on the tax rolls of the county treasurer at the address shown thereon. The notice shall refer to the resolution of intention and designate the proposed improvement district by number. Said notice shall also set forth the nature of the proposed improvement, the total estimated cost, the proportion of total cost to be borne by assessment, the estimated amount of the cost and expense of such improvement to be borne by the particular lot, tract or parcel, the date, time and place of the hearing before the board of library trustees; and in the case of improvements initiated by resolution, said notice shall also state that all persons desiring to object to the formation of the proposed district must file their written protests with the secretary of the board of library trustees within three weeks of the date said notice is mailed. [1963 c 80 § 2; 1961 c 162 § 3.]

27.14.035 Hearing—Boundaries—Protests—Divestment of jurisdiction—Powers and duties pursuant to finding for formation. Whether the improvement is initiated by petition or resolution, the board shall conduct a public hearing at the time and place designated in the notice to property owners. At this hearing the board shall hear objections from any person affected by the formation of the local district and may make such changes in the boundaries of the district or such modifications in plans for the proposed improvement as shall be deemed necessary: *Provided*, That the board may not change the boundaries of the district to include property not previously included therein without first passing a new resolution of intention and giving a new notice to property owners in the manner and form and within the time herein provided for the original notice.

After said hearing the board shall have jurisdiction to overrule protests and proceed with any such improvement initiated by petition or resolution: *Provided*, That the jurisdiction of the board to proceed with any improvement initiated by resolution shall be divested by protests filed with the secretary of the board pursuant to RCW 27.14.030, signed by the owners, according to the records of the county auditor, of at least forty percent of the area of land within the proposed local district, excluding all federally owned or other nonassessable property.

If the board finds that the district should be formed, they shall by resolution order the improvement, provide the general funds of the district to be applied thereto, adopt detailed plans of the local improvement district and declare the estimated cost thereof, acquire all necessary land therefor, pay all damages caused thereby, and commence in the name of the district such eminent domain proceedings and supplemental assessment or reassessment proceedings to pay all eminent domain awards as may be necessary to entitle the district to proceed with the work. The board shall proceed with the work and file with the county treasurer its roll levying special assessments in the amount to be paid by special assessment against the property situated within the local improvement district in proportion to the special benefits to be derived by the property therein from the improvement. [1963 c 80 § 3.]

27.14.040 Subsequent proceedings to be in accordance with sewer district law. All subsequent proceedings in connection with the local improvement, including but not limited to the levying, collection and enforcement of local improvement assessments, shall be in accordance with the provisions of law applicable to sewer district local improvement district improvements set forth in chapter 56.20 RCW, and references therein to the board of sewer commissioners and secretary of the board of sewer commissioners shall be deemed references to the governing board of the library district and secretary of the governing board of the library district. [1963 c 80 § 4; 1961 c 162 § 4.]

27.14.050 Chapter may be used in conjunction with regional agreements. Library districts may use the provisions of this chapter for library district purposes alone or in conjunction with regional library agreements. [1961 c 162 § 5.]

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 27.18
INTERSTATE LIBRARY COMPACT

Sections

27.18.010	Definitions.
27.18.020	Compact enacted—Provisions.
27.18.030	Compact administrator—Deputies—Library agreements, submittal.
27.18.040	Compliance with tax and bonding laws enjoined.
27.18.050	Withdrawal—Compact administrator to send and receive notices.

27.18.010 Definitions. As used in this chapter, except where the context otherwise requires:

- (1) "Compact" means the interstate library compact.
- (2) "Public library agency", with reference to this state, means the state library and any county or city library or any regional library, rural county library district library, or intercounty rural library district library.
- (3) "State library agency", with reference to this state, means the commissioners of the state library. [1965 ex.s. c 93 § 1.]

27.18.020 Compact enacted—Provisions. The interstate library compact hereby is enacted into law and entered into by this state with all states legally joining therein in the form substantially as follows:

INTERSTATE LIBRARY COMPACT

Article I. Policy and Purpose

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

Article II. Definitions

As used in this compact:

- (a) "Public library agency" means any unit or agency of local or state government operating or having power to operate a library.
- (b) "Private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library.
- (c) "Library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

Article III. Interstate Library Districts

(a) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish

and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(b) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(c) If a library agreement provides for joint establishment, maintenance or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

1. Undertake, administer and participate in programs or arrangements for securing, lending or servicing books and other publications, any other materials suitable to be kept or made available by libraries, library equipment or for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof.

2. Accept for any of its purposes under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, (conditional or otherwise), from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and receive, utilize and dispose of the same.

3. Operate mobile library units or equipment for the purpose of rendering bookmobile service within the district.

4. Employ professional, technical, clerical and other personnel, and fix terms of employment, compensation and other appropriate benefits; and where desirable, provide for the inservice training of such personnel.

5. Sue and be sued in any court of competent jurisdiction.

6. Acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service.

7. Construct, maintain and operate a library, including any appropriate branches thereof.

8. Do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

Article IV. Interstate Library Districts, Governing Board

(a) An interstate library district which establishes, maintains or operates any facilities or services in its own right shall have a governing board which shall direct the

affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(b) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

Article V. State Library Agency Cooperation

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district and an agreement embodying any such program, service or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

Article VI. Library Agreements

(a) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

1. Detail the specific nature of the services, programs, facilities, arrangements or properties to which it is applicable.
2. Provide for the allocation of costs and other financial responsibilities.
3. Specify the respective rights, duties, obligations and liabilities of the parties.
4. Set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(b) No public or private library agency shall undertake to exercise itself, or jointly with any other library agency, by means of a library agreement any power prohibited to such agency by the constitution or statutes of its state.

(c) No library agreement shall become effective until filed with the compact administrator of each state involved, and approved in accordance with Article VII of this compact.

Article VII. Approval of Library Agreements

(a) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within ninety days of its submission shall constitute approval thereof.

(b) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (a) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

Article VIII. Other Laws Applicable

Nothing in this compact or in any library agreement shall be construed to supersede, alter or otherwise impair any obligation imposed on any library by otherwise applicable law, nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

Article IX. Appropriations and Aid

(a) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(b) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

Article X. Compact Administrator

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact

administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

Article XI. Entry Into Force and Withdrawal

(a) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(b) This compact shall continue in force with respect to a party state and remain binding upon such state until six months after such state has given notice to each other party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

Article XII. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. [1965 ex.s. c 93 § 2.]

27.18.030 Compact administrator—Deputies—Library agreements, submittal. The state librarian shall be the compact administrator pursuant to Article X of the compact. The state librarian shall appoint one or more deputy compact administrators. Every library agreement made pursuant to Article VI of the compact shall, as a condition precedent to its entry into force, be submitted to the state librarian for his recommendations. [1965 ex.s. c 93 § 3.]

27.18.040 Compliance with tax and bonding laws enjoined. No regional library, county library, rural county library district library, intercounty rural library district library, or city library of this state shall be a party to a library agreement which provides for the construction or maintenance of a library pursuant to Article III, subdivision (c-7) of the compact, nor levy a tax or issue bonds to contribute to the construction or maintenance of such a library, except after compliance with any laws applicable to regional libraries, county libraries, rural county library district libraries, intercounty rural library district libraries, or city libraries relating to or governing the levying of taxes or the issuance of bonds. [1965 ex.s. c 93 § 4.]

27.18.050 Withdrawal—Compact administrator to send and receive notices. In the event of withdrawal from the compact the compact administrator shall send and receive any notices required by Article XI(b) of the compact. [1965 ex.s. c 93 § 5.]

**Chapter 27.20
STATE LAW LIBRARY**

Sections

- 27.20.030 Library part of judicial branch.
27.20.040 State law librarian and assistants—Appointment, tenure, compensation.
27.20.050 Duties of law librarian.

27.20.030 Library part of judicial branch. The state law library shall be a part of the judicial branch of state government and shall be under the exclusive jurisdiction and control of the supreme court. [1959 c 188 § 1.]

Transfer of appropriations: "The unencumbered balances of the current biennium appropriations for the state law library and the state law librarian's salary are hereby consolidated into salaries, wages and operations and shall be administered and expended as directed by the court." [1959 c 188 § 4.]

Committee abolished: "The state law library committee is hereby abolished." [1959 c 188 § 5.] Provisions relating to the state law library committee were formerly codified in chapter 43.36 RCW but were repealed by 1959 c 188 § 6.

27.20.040 State law librarian and assistants—Appointment, tenure, compensation. The supreme court shall appoint a state law librarian, who may be removed at its pleasure. The librarian shall receive such compensation only as shall be fixed by the court.

The court may also appoint and fix the salaries of such assistants and clerical personnel as may be required. [1959 c 188 § 2.]

Rules of court: SAR 18.

27.20.050 Duties of law librarian. The duties of the state law librarian shall be as prescribed by statute and by rules of court. [1959 c 188 § 3.]

Duties of state law librarian relative to session laws, legislative journals and supreme court reports: Chapter 40.04 RCW.

**Chapter 27.24
COUNTY LAW LIBRARIES**

Sections

- COUNTIES HAVING POPULATION OF THREE HUNDRED THOUSAND OR MORE**
- 27.24.010 Establishment.
27.24.020 Board of trustees—Composition—Terms.
27.24.030 Powers of board.
27.24.040 Annual report.
27.24.050 Library rooms and service.
27.24.060 Free use of library.

FIRST, SECOND, THIRD, FOURTH, FIFTH AND SIXTH CLASS COUNTIES

- 27.24.062 Establishment of county and regional law libraries.
27.24.063 Board of trustees for county and regional law libraries.
27.24.064 Powers of board.
27.24.065 Annual report.
27.24.066 Library rooms and service.
27.24.067 Free use of library.

SEVENTH AND EIGHTH CLASS COUNTIES

27.24.068 Establishment of county law library—Trustee—Free use of library.

SUPPORT

27.24.070 Additional filing fees.
27.24.090 Discontinuance of fees.

COUNTIES HAVING POPULATION OF THREE HUNDRED THOUSAND OR MORE

27.24.010 Establishment. In each county having a population of three hundred thousand or more there shall be a county law library, which shall be governed and maintained as hereinafter provided. [1919 c 84 § 1; RRS § 8247.]

27.24.020 Board of trustees—Composition—Terms. There shall be in every such county a board of law library trustees consisting of five members to be constituted as follows: The chairman of the board of county commissioners shall be ex officio a trustee, and the judges of the superior court of the county shall choose two of their number and two members of the bar of the county to be trustees. The term of office of a member of the board who is a judge shall be for as long as he continues to be a judge, and the term of a member who is from the bar shall be four years. Vacancies shall be filled as they occur and in the manner above directed. The office of trustee shall be without salary or other compensation. The board shall elect one of their number president and the librarian shall act as secretary. Meetings shall be held at least quarterly and as much oftener and at such times as may be prescribed by rule. [1919 c 84 § 2; RRS § 8248.]

27.24.030 Powers of board. The board of law library trustees shall have power:

(1) To make and enforce rules for their own procedure and for the government, care and use of the library, and for the guidance of employees.

(2) To remove any trustee, except an ex officio trustee, for neglect to attend the meetings of the board.

(3) To employ a librarian and assistants and to prescribe their duties, fix their compensation and remove them at will.

(4) To purchase books, periodicals and other property suitable for the library and to accept gifts and bequests of money and property for the library, and to sell property which is unsuitable or not needed for the library.

(5) To examine and approve for payment claims and demands payable out of the county law library fund. [1919 c 84 § 3; RRS § 8249.]

27.24.040 Annual report. The board of law library trustees shall, on or before the first Monday in September of each year, make a report to the board of county commissioners of their county giving the condition of their trust, with a full statement of all property received and how used, the number of books and other publications on hand, the number added by purchase, gift or otherwise during the preceding year, the number lost or missing, and such other information as may be of public

interest, together with a financial report showing all receipts and disbursements of money. [1919 c 84 § 4; RRS § 8250.]

27.24.050 Library rooms and service. The board of county commissioners of each county to which *this act is applicable shall, upon demand by the board of law library trustees, provide a room suitable for the law library, adequately heated and lighted. [1919 c 84 § 5; RRS § 8251.]

*Reviser's note: "this act" (Laws 1919 c 84), is codified herein as RCW 27.24.010 through 27.24.060, 27.24.070 and 27.24.080.

27.24.060 Free use of library. The use of a county law library shall be free to the judges of the state and to state and county officials and to the inhabitants of the county. The board of law library trustees may prescribe uniform rules for the use of the library. [1919 c 84 § 6; RRS § 8252.]

FIRST, SECOND, THIRD, FOURTH, FIFTH AND SIXTH CLASS COUNTIES

27.24.062 Establishment of county and regional law libraries. In each county of the first, second, third, fourth, fifth, and sixth classes there shall be a county law library which shall be governed and maintained as hereinafter provided.

Two or more of such counties may, by agreement of the respective law library boards of trustees, create a regional law library and establish and maintain one principal law library at such location as the regional board of trustees may determine will best suit the needs of the users: *Provided, however,* That there shall be at all times a law library in such size as the board of trustees may determine necessary to be located at the courthouse where each superior court is located. [1971 ex.s. c 141 § 1; 1943 c 195 § 1; 1933 c 167 § 1; 1925 ex.s. c 94 § 1; Rem. Supp. 1943 § 8254-1.]

27.24.063 Board of trustees for county and regional law libraries. There shall be in every such county a board of law library trustees consisting of five members to be constituted, as follows: Chairman of the board of county commissioners shall be ex officio trustee and the judges of the superior court of the county shall choose one of their number, and the members of the county bar association (or if there be no bar association, then the lawyers of said county) shall choose three of their number to be trustees: *Provided, however,* That in the case of regional law libraries the board of trustees shall be one board of trustees which shall be selected in the above manner and constituted as follows: One superior court judge, one county commissioner from each county and one lawyer from the county seat of each county. The term of office of a member of the board who is a judge, shall be for as long as he continues to be a judge, and the term of a member who is from the bar shall be four years. Vacancies shall be filled as they occur and in the manner above directed. The office of trustee shall be without salary or other compensation. The board shall

elect one of their number president, and one as secretary, or if a librarian is appointed the librarian shall act as secretary. Meetings shall be held at least once a year and as much oftener and at such times as may be prescribed by rule. [1971 ex.s. c 141 § 2; 1933 c 167 § 3, part; RRS § 8254-4.]

27.24.064 Powers of board. The board of law library trustees shall have power:

(1) To make and enforce rules for their own procedure and for the government, care and use of the library and for the guidance of employees.

(2) To remove any trustee, except an ex officio trustee, for neglect to attend the meetings of the board.

(3) To employ a librarian and assistants if necessary, and to prescribe their duties, fix their compensation and remove them at will.

(4) To purchase books, periodicals and other property suitable for the library and to accept gifts and bequests of money and property for the library and to sell property which is unsuitable or not needed for the library.

(5) To examine and approve for payment claims and demands payable out of the county law library fund. [1933 c 167 § 3, part; RRS § 8254-5.]

27.24.065 Annual report. The board of law library trustees shall on or before the first Monday of September of each year make a report to the board of county commissioners of said county, giving the condition of their trust and a full statement of property received and how used, number of books and other publications on hand, the number added by purchase, gift or otherwise during the preceding year, the number lost or missing, and such other information as may be of public interest, together with a financial report of all receipts and disbursements of money. [1933 c 167 § 3, part; RRS § 8254-6.]

27.24.066 Library rooms and service. The board of county commissioners of each county to which *this act is applicable, shall upon demand by the board of law library trustees, provide a room suitable for the law library, adequately heated, lighted, and janitor service. [1933 c 167 § 3, part; RRS § 8254-7.]

*Reviser's note: "this act" (Laws 1933 c 167), is codified herein as RCW 27.24.062 through 27.24.067, 27.24.070 through 27.24.090.

27.24.067 Free use of library. 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 board of trustees may by rule provide. [1933 c 167 § 3, part; RRS § 8254-8.]

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.

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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

27.24.070 Additional filing fees. In each county pursuant to this chapter, the clerk of the superior court shall pay from each fee collected for the filing in his office of every new probate or civil matter, including appeals, abstracts or transcripts of judgments, the sum of three dollars for the support of the law library in that county or the regional law library to which the county belongs, which shall be paid to the county treasurer to be credited to the county or regional law library fund: *Provided*, That upon a showing of need the three dollar fee may be increased up to five dollars upon the request of the law library board of trustees and with the approval of the county legislative body or bodies. There shall be paid from the filing fee paid by each person instituting an action, when the first paper is filed, to each justice of the peace in every civil action commenced in such court where the demand or value of the property in controversy is one hundred dollars or more, in addition to the other fees required by law the sum of one dollar and fifty cents as fees for the support of the law library in that county or for the regional law library which are to be taxed as part of costs in each case.

The justice of the peace shall pay such fees so collected to the county treasurer to be credited to the county or regional law library fund. [1971 ex.s. c 141 § 3; 1969 c 25 § 2; 1961 c 304 § 9; 1957 c 31 § 1; 1953 c 249 § 1. Prior: (i) 1937 c 32 § 1, part; 1919 c 84 § 8, part; RRS § 8254, part. (ii) 1933 c 167 § 2, part; 1925 ex.s. c 94 § 3, part; RRS § 8254-3, part. (iii) 1943 c 195 § 2; Rem. Supp. 1943 § 8254-9.]

County clerk's fees: RCW 36.18.020.

Justice courts, filing fees in civil cases: RCW 3.62.060.

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 27.26 WASHINGTON LIBRARY NETWORK

Washington library network computer system: RCW 43.105.100-43.105.130.

Chapter

27.26.010 Definitions.

27.26.020 Network established—Responsibility of state library commission and data processing authority.

27.26.010 Definitions. As used in this chapter, unless otherwise required by the context, the following definitions shall apply:

(1) "Washington library network computer system" means the communication facilities, computers, and peripheral computer devices supporting the automated library system developed by the state of Washington;

(2) "Network" means the Washington library network which is an organization of autonomous, geographically dispersed participants using the Washington library network computer system, telecommunications systems, interlibrary systems, and reference and referral systems;

(3) "Resources" are library materials which include but are not limited to print, nonprint (e.g., audiovisual, realia, etc.), and microform formats; network resources such as software, hardware, and equipment; electronic and magnetic records; data bases; communication technology; facilities; and human expertise;

(4) "Telecommunications" includes any point to point transmission, emission, or reception of signs, signals, writing, images, and sounds or intelligence of any nature by wire, radio, microwave radio, optical, or other electromagnetic system, including any intervening processing and storage serving a point to point system;

(5) "Interlibrary loan system" means the accepted procedures among libraries by which library materials are made available in some format to users of another library;

(6) "Reference and referral system" pertains to procedures among libraries whereby subject or fact-oriented queries may be referred to another institution when the answering resource or subject expertise is unavailable in the institution originally queried. [1975-'76 2nd ex.s. c 31 § 2.]

27.26.020 Network established—Responsibility of state library commission and data processing authority. There is hereby established the Washington library network, hereinafter called the network, which shall consist of the Washington library network computer system, telecommunications systems, interlibrary systems, and reference and referral systems.

Responsibility for the network shall reside with the Washington state library commission, except for certain automated data processing components as provided for and defined in chapter 43.105 RCW: *Provided*, That all components, systems and programs operated pursuant to this section shall be approved by the data processing authority created pursuant to chapter 43.105 RCW. The commission shall adopt and promulgate policies, rules, and regulations consistent with the purposes and provisions of this chapter pursuant to chapter 34.04 RCW, the administrative procedure act, except that nothing in this chapter shall abrogate the authority of a participating library, institution, or organization to establish its own policies for collection development and use of its library resources. [1975-'76 2nd ex.s. c 31 § 1.]

Chapter 27.28

WASHINGTON STATE HISTORICAL SOCIETY

Sections

27.28.010	Society as trustee—Duties.
27.28.020	Property held in trust for people.
27.28.021	Pickett House—Conveyance to Daughters of the Pioneers.
27.28.022	Pickett House—In trust—Reverter.
27.28.030	Board of curators.
27.28.040	Preservation of newspaper files.

Reviser's note: Laws 1909 c 242, relating to the construction of and an appropriation for a state historical building for the use of the Washington state historical society, being temporary in nature, has not been codified herein.

Preservation of records of historical interest: RCW 40.14.070.

27.28.010 Society as trustee—Duties. The Washington state historical society, a corporation existing under the laws of the state of Washington, be and the same is hereby created the trustee of the state for the intent and purposes hereinafter mentioned, viz.:

It shall be the duty of the said society

(1) To collect books, maps, charts, papers and materials illustrative of the history of this state, and of its progress and development.

(2) To procure from pioneers authentic narrative of their experiences and of incidents relating to the early settlement of this state.

(3) To gather data and information concerning the origin, history, language and customs of our Indian tribes.

(4) To procure and purchase books, papers and pamphlets for the several departments of its collections; climatic, health and mortuary statistics, and such other books, maps, charts, papers and materials as will facilitate the investigation of the historical, scientific and literary subjects.

(5) To bind, shelf, store and safely keep the unbound books, documents, manuscripts, pamphlets and newspaper files now or hereafter to come into its possession.

(6) To catalogue the collections of said society for the convenient reference of persons having occasion to consult same.

(7) To prepare biennially for publication a report of its collections and such other matters relating to the work of the society as may be useful to the state and the people thereof.

(8) To keep its rooms open at all reasonable hours of business days for the reception of citizens and visitors without charge. [1903 c 177 § 1; RRS § 8259.]

Society as trustee of county or municipal materials: RCW 27.48.030.

27.28.020 Property held in trust for people. The books, maps, charts, relics, memorials, collections and all other property of the society now owned or hereafter acquired shall be held by the said society perpetually in trust for the use and benefit of the people of the state of Washington. [1903 c 177 § 2; RRS § 8260.]

27.28.021 Pickett House—Conveyance to Daughters of the Pioneers. The Washington state historical society, which holds title thereto as trustee for the state of Washington pursuant to the provisions of RCW 27.28.020, is hereby authorized to convey to the

Daughters of the Pioneers of Washington, Whatcom Chapter No. 5, a Washington nonprofit corporation to be organized, for a consideration of one dollar, the following described real property situated in the county of Whatcom, state of Washington, to wit:

Lot 1, in Block 10, of the Town of Whatcom, now a part of the

City of Bellingham, according to the plat thereof on file and

of record in the office of the Auditor of said County, which real property constitutes the Pickett House in said city. [1965 c 31 § 1.]

27.28.022 Pickett House—In trust—Reverter. Said chapter, by acceptance of such conveyance, shall be deemed to have agreed to hold said property in trust for the state of Washington, and to maintain and keep the same open to the public as an historical site, and, in case of its failure so to do, title to said property shall revert to the state of Washington. [1965 c 31 § 2.]

27.28.030 Board of curators. The governor, secretary of state and state treasurer shall be ex officio members of the board of curators of the said Washington state historical society, authorized and empowered to vote upon all questions coming before the said board for its action. [1903 c 177 § 3; RRS § 8261.]

27.28.040 Preservation of newspaper files. The boards of county commissioners of the several counties may, in their discretion, acquire without expense, files of not more than three newspapers published in their respective counties and have the same suitably bound and delivered to the Washington state historical society for preservation. Said society shall provide for such volumes a place in which they will be readily accessible to the public for examination and for the copying of extracts therefrom. [1915 c 64 § 1; RRS § 8265.]

Chapter 27.32

EASTERN WASHINGTON STATE HISTORICAL SOCIETY

Sections

- 27.32.010 Society as trustee—Duties.
27.32.020 Property held in trust for people.
27.32.030 Board of curators.

Preservation of records of historical interest: RCW 40.14.070.

27.32.010 Society as trustee—Duties. The Eastern Washington state historical society, a corporation existing under the laws of the state of Washington, be and the same is hereby created a trustee of the state of Washington for the intent and purposes hereinafter mentioned:

It shall be the duty of the said society

(1) To collect books, maps, charts, papers and materials illustrative of the history of this state, and of its progress and development.

(2) To procure from pioneers authentic narrative of their experiences and of incidents relating to the early settlement of this state.

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(3) To gather data and information concerning the origin, history, language and customs of our Indian tribes.

(4) To procure and purchase books, papers and pamphlets for the several departments of its collections, climatic, health and mortuary statistics, and such other books, maps, charts, papers and materials as will facilitate the investigation of the historical, scientific and literary subjects.

(5) To bind, shelf, store and safely keep the unbound books, documents, manuscripts, pamphlets and newspaper files now or hereafter to come into its possession.

(6) To catalogue the collections of said society for the convenient reference of persons having occasion to consult same.

(7) To prepare biennially for publication a report of its collections and such other matters relating to the work of the society as may be useful to the state and people thereof.

(8) To keep its rooms open at all reasonable hours of business days for the reception of citizens and visitors, without charge.

(9) To develop, purchase, and acquire through gift, loan, or otherwise, collections of history and art, which through exhibit and exhibition, will promote a better understanding of the cultural development of the state, and to otherwise encourage the application of history and art. [1973 c 35 § 1; 1925 ex.s. c 187 § 1; RRS § 8265-1.]

Society as trustee of county or municipal materials: RCW 27.48.030.

27.32.020 Property held in trust for people. The books, maps, charts, relics, memorials, collections and all other property of the society now owned or hereafter acquired shall be held by the said society perpetually in trust for the use and benefit of the people of the state of Washington: *Provided*, That nothing contained herein shall prohibit the society from declining to accept, selling, exchanging, or otherwise divesting itself of such items which do not, in the judgment of the board of trustees, properly enhance its collection. [1973 c 35 § 2; 1925 ex.s. c 187 § 2; RRS § 8265-2.]

27.32.030 Board of curators. The governor, secretary of state and state treasurer shall be ex officio members of the board of trustees of the said Eastern Washington state historical society, authorized and empowered to vote upon all questions coming before the said board for its action. [1925 ex.s. c 187 § 3; RRS § 8265-3.]

Chapter 27.36

STATE CAPITOL HISTORICAL ASSOCIATION AND MUSEUM

Sections

- 27.36.010 Association as trustee—Duties.
27.36.020 State capitol historical museum.
27.36.030 Property held in trust for people—Loans and exchanges.
27.36.040 Board of trustees.
27.36.050 Director—Duties.
27.36.060 Cultural and educational activities.
27.36.070 Disposition of revenue—State capitol historical association museum account.

Preservation of records of historical interest: RCW 40.14.070.

27.36.010 Association as trustee—Duties. The state capitol historical association, a corporation existing under and by virtue of the laws of the state of Washington, be, and the same is hereby, created a trustee of the state of Washington for the intent and purposes hereinafter mentioned:

It shall be the duty of the said association

(1) To collect books, maps, charts, papers, relics and other materials illustrative of the history of this state, and, in particular, of the progress and development of the territorial capitol and the state capitol at Olympia;

(2) To procure from pioneers authentic narratives of the experiences and of incidents relating to the early settlement of this state;

(3) To shelf, store and safely keep such books, maps, charts, papers, relics and other historical material now or hereafter to come into its possession;

(4) To catalog the collections of said association for the convenient reference of persons having occasion to consult the same;

(5) To keep the museum display rooms open at reasonable hours for the reception of citizens and visitors, without charge;

(6) To engage in cultural and educational activities;

(7) To display items of interest to the people of the state, including but not limited to scientific, industrial, agricultural, commercial, and cultural exhibits;

(8) To engage in the sale of various articles which are consistent with the basic purposes of the state capitol museum to visitors to the museum;

(9) To dispose of items which are no longer of historical value to the museum or of interest to the patrons of the museum. [1965 ex.s. c 62 § 1; 1941 c 44 § 1; Rem. Supp. 1941 § 8265-4.]

27.36.020 State capitol historical museum. The building and grounds designated as Block 2, Grainger's Addition to the City of Olympia, County of Thurston, acquired by the state under senate joint resolution No. 18, session of 1939, is hereby designated a part of the state capitol, to be known as the state capitol historical museum. This structure is to be used for purposes of housing said historical relics, documents and material as are now owned by the state and housed at the state capitol, and also such additional historical relics, documents and material which shall hereafter be acquired by the state for addition to the state capitol historical museum, and also such historical collections which are now owned or shall hereafter be acquired by the state capitol historical association. [1941 c 44 § 3; Rem. Supp. 1941 § 8265-6.]

27.36.030 Property held in trust for people—Loans and exchanges. The books, maps, charts, papers, relics and other historical material now or hereafter acquired by said association shall be held by said association in trust for the use and benefit of the people of the state of Washington and shall be housed at the state capitol museum: *Provided*, That the board of trustees of

said association are hereby authorized to loan items to and receive on loan items from various public and private museums and agencies: *Provided further*, That the board of trustees of said association may exchange items with other public and private museums and agencies except in those instances where the items belonging to the museum were received with a restriction as to their use or disposition. [1965 ex.s. c 62 § 2; 1941 c 44 § 2; Rem. Supp. 1941 § 8265-5.]

27.36.040 Board of trustees. The governor, the secretary of state, and the state superintendent of public instruction shall be ex officio members of the board of trustees of said state capitol historical association, and as such are hereby authorized and empowered to vote upon all questions coming before such board for its action. [1941 c 44 § 4; Rem. Supp. 1941 § 8265-7.]

27.36.050 Director—Duties. There shall be appointed by the state capitol historical association, with the consent of the governor, a person to be designated as director of the state capitol museum, whose duties shall be:

(1) To designate arrangements and locations of the various collections and historical material in the state capitol museum;

(2) To administer the affairs of the museum under the policies established by the board of trustees;

(3) To perform such other duties and functions as may be delegated to him by the board of trustees;

(4) To prepare a biennial report to the state legislature on the progress of development of the state capitol museum. [1965 ex.s. c 62 § 3; 1941 c 44 § 5; Rem. Supp. 1941 § 8265-8.]

27.36.060 Cultural and educational activities. Notwithstanding the provisions of this chapter, the state capitol historical association may engage in cultural and educational activities at the museum or elsewhere in the community which do not involve the expenditure of state funds so long as any funds derived from such activities inure to the benefit of the state capitol museum and do not result in a profit to private individuals or corporations. [1965 ex.s. c 62 § 4.]

27.36.070 Disposition of revenue—State capitol historical association museum account. All moneys collected under this chapter shall be paid to the state treasurer who shall deposit them in an account which is hereby established and shall be known as the state capitol historical association museum account, within the general fund, which shall be expended for such museum purposes as shall be determined proper by a majority of the board of trustees of said association. Moneys in the state capitol historical association museum trust fund at the time of the effective date of this act shall be transferred to, and shall constitute a part of, the account herein created. [1965 ex.s. c 62 § 5.]

Reviser's note: The effective date of 1965 ex.s. c 62 was August 6, 1965.

Chapter 27.40

MUSEUM OF UNIVERSITY OF WASHINGTON

Sections

- 27.40.010 University museum constituted state museum.
 27.40.020 Duty of state officials to send materials to museum.
 27.40.030 Acceptance of materials from private sources.
 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.
 27.40.040 Management in board of regents.

27.40.010 University museum constituted state museum. The museum of the University of Washington is hereby constituted the state museum as a depository for the preservation and exhibition of documents and objects possessing an historical value, of materials illustrating the fauna, flora, anthropology, mineral wealth, and natural resources of the state, and for all documents and objects whose preservation will be of value to the student of history and the natural sciences. [1899 c 30 § 1; RRS § 8255.]

27.40.020 Duty of state officials to send materials to museum. It shall be the duty of all boards, commissioners and officers acting under the authority of this state who, in the performance of their duties, may come into possession of any documents or material having an historical or scientific value to send for preservation and exhibition all such documents or material, unless otherwise by law provided for, to the state museum constituted by RCW 27.40.010. [1899 c 30 § 2; RRS § 8256.]

Eastern Washington historical society: Chapter 27.32 RCW.

Preservation of historical materials: Chapter 27.48 RCW.

State capitol historical association and museum: Chapter 27.36 RCW.

Washington historical society: Chapter 27.28 RCW.

27.40.030 Acceptance of materials from private sources. This museum may receive all such above named documents or material for preservation and exhibition from any private person under such rules and regulations as the board of regents of the University of Washington may deem proper to make for the care of the aforesaid museum. [1899 c 30 § 3; RRS § 8257.]

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.]

27.40.040 Management in board of regents. The board of regents of the University of Washington ex officio shall have full charge and management of the state museum hereby created. [1899 c 30 § 4; RRS § 8258.]

Chapter 27.44

INDIAN GRAVES AND RECORDS

Sections

- 27.44.010 Penalty for mutilation.
 27.44.020 Examination permitted—Removal to museum.

27.44.010 Penalty for mutilation. Any person who shall wilfully remove, mutilate, deface, injure or destroy any cairn or grave of any native Indian, or any glyptic or painted record of any prehistoric tribes or peoples, shall be guilty of a gross misdemeanor. [1941 c 216 § 1; Rem. Supp. 1941 § 3207-10.]

Malicious mischief—Injury to property: Chapter 9A.48 RCW.

Mutilating, disinterring human remains—Penalty: RCW 68.08.150.

Punishment of gross misdemeanor when not fixed by statute: RCW 9.92.020.

27.44.020 Examination permitted—Removal to museum. Any archaeologist or interested person may copy and examine such glyptic or painted records or examine the surface of any such cairn or grave, but no such record or archaeological material from any such cairn or grave may be removed unless the same shall be destined for exhibit and perpetual preservation in a duly recognized museum and permission for scientific research and removal of specimens of such records and material has been granted by the president of the University of Washington or the Washington State College or a duly designated member of either president's faculty. [1941 c 216 § 2; Rem. Supp. 1941 § 3207-11.]

Chapter 27.48

PRESERVATION OF HISTORICAL MATERIALS

Sections

- 27.48.010 Public purpose declared—Powers of counties and municipalities.
27.48.030 Custody of historical materials.

Preservation and destruction of public records, state archivist: Chapter 40.14 RCW.

27.48.010 Public purpose declared—Powers of counties and municipalities. The storage, preservation and exhibit of historical materials, including, but not restricted to, books, maps, writings, newspapers, ancient articles, and tools of handicraft, antiques, artifacts, and relics is declared to be a public project carried on for public purpose and the legislative body of any county, city or town, may provide quarters therefor within the territorial limits thereof and may provide funds necessary for the proper operation of any such institution already in operation, or otherwise provide for the preservation of historical material covered by this chapter. [1957 c 47 § 1; 1949 c 160 § 1; Rem. Supp. 1949 § 8265–9.]

27.48.030 Custody of historical materials. A county, city or town which has provided quarters for the storage, preservation, or exhibit of historical materials may award custody thereof, as trustee, to the Washington State Historical Society, or the Eastern Washington State Historical Society, or the State Capitol Historical Association, or any organization sponsoring the exhibit thereof if such organization be affiliated with or approved by the Washington State Historical Society or the Eastern Washington State Historical Society. [1957 c 47 § 3; 1949 c 160 § 3; Rem. Supp. 1949 § 8265–11.]

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 Violations—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, created under the authority of chapter 39.34 RCW as now existing or hereafter amended, is hereby designated as an appropriate agency to carry out these functions. The director of the state parks and recreation commission in consultation with the Washington archaeological research center shall provide guidelines for the selection of depositories designated by the state for archaeological resources. The legislature directs that there shall be full cooperation amongst the office of archaeology and historic preservation, the Washington archaeological research center, and other agencies of the state. [1975-'76 2nd ex.s. c 82 § 1; 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, corporation, or any agency or institution of the state or a political subdivision thereof 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 written permission from the director of the state parks and recreation commission for such activities on public property or from the private landowner for such activities on private land. A private landowner may request the director of the state parks and recreation commission to assume the duty of issuing such permits. The director must obtain the consent of the public property owner or agency responsible for the management thereof, prior to issuance of the permit. The director of the state parks and recreation commission in consultation with the Washington state archaeological research center shall develop guidelines for the issuance and processing of such permits. 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-'76 2nd ex.s. c 82 § 2; 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. Such information shall not constitute a public record which requires disclosure pursuant to the exception authorized in RCW 42.17.310, as now or hereafter amended, to avoid site depredation. [1975-'76 2nd ex.s. c 82 § 3; 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 Violations—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. Violations shall be reported to the appropriate law enforcement agency or to the director of the state parks and recreation commission. [1975-'76 2nd ex.s. c 82 § 4; 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

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Title 28A

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28A.01.180 Elderly persons defined for nonprofit meal program purposes.

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28A.01.200 Definitions relating to negotiations by certificated personnel.

"Classroom teacher" defined for pupil/teacher ratio purposes: RCW 28A.41.130.

28A.01.010 School day. A school day shall mean each day of the school year on which pupils enrolled in the common schools of a school district are engaged in educational activity planned by and under the direction of the school district staff, as directed by the administration and board of directors of the district. [1971 ex.s. c 161 § 1; 1969 ex.s. c 223 § 28A.01.010. Prior: (i) 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part; 1897 c 118 § 66, part; 1890 p 372 § 46. Formerly RCW 28.01.010, part. (ii) 1917 c 127 § 1, part; RRS § 5098, part. Cf. 1911 c 82 § 1, part; 1909 c 97 p 371 subchapter 19, part; 1897 c 118 § 181, part. Formerly RCW 28.35.030, part.]

28A.01.020 School year—Beginning—End. The school year shall begin on the first day of September and end with the last day of August. [1975-'76 2nd ex.s. c 118 § 22; 1969 ex.s. c 223 § 28A.01.020. Prior: 1909 c 97 p 262 § 4; RRS § 4688; prior: 1897 c 118 § 67; 1890 p 373 § 49. Formerly RCW 28.01.020.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.01.025 School year—For certification or qualification purposes. The school year for all matters pertaining to teacher certification or for computing experience in teaching shall consist of not fewer than one hundred eighty school days. [1969 ex.s. c 223 § 28A.01.025. Prior: 1909 c 97 p 262 § 3, part; RRS § 4687, part; prior: 1903 c 104 § 22, part. Formerly RCW 28.01.010, part.]

28A.01.026 School year—Fiscal year. See RCW 1.16.030.

28A.01.040 High school district. See RCW 28A.44.045.

28A.01.045 Nonhigh school district. See RCW 28A.44.045.

28A.01.055 Public schools. Public schools shall mean the common schools as referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense. [1969 ex.s. c 223 § 28A.01.055.]

28A.01.060 Common schools. "Common schools" means schools maintained at public expense in each

school district and carrying on a program from kindergarten through the twelfth grade or any part thereof including vocational educational courses otherwise permitted by law. [1969 ex.s. c 223 § 28A.01.060. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28.58.190, part, 28.01.060.]

28A.01.100 Superintendent of the school district. "Superintendent of the school district", if there be no such superintendent, shall mean such other administrative or certificated employee as the school district board of directors shall so designate. [1969 ex.s. c 223 § 28A.01.100.]

28A.01.110 Commonly-used schoolhouse doors. "Commonly-used schoolhouse doors" means such schoolhouse doors utilized for building entry and exit and used by students, certificated and noncertificated personnel and the public regularly as contrasted to such schoolhouse doors whose use is generally confined to certificated or noncertificated personnel. [1969 ex.s. c 223 § 28A.01.110.]

28A.01.120 Associated student body. See RCW 28A.58.115.

28A.01.130 Certificated employee. 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.

28A.01.140 Uniform definition of terms used in vocational education. See RCW 28A.09.110 and 28A.09.120.

28A.01.150 Definitions relative to vocational rehabilitation and services for handicapped persons. See RCW 28A.10.010 and 28A.10.105.

28A.01.160 Definitions relating to division for handicapped children. See RCW 28A.13.010.

28A.01.170 Superior students defined. See RCW 28A.16.010.

28A.01.180 Elderly persons defined for nonprofit meal program purposes. See RCW 28A.58.722.

28A.01.190 Student financial assistance program, definitions relating to. See RCW 28A.58.700.

28A.01.200 Definitions relating to negotiations by certificated personnel. See RCW 28A.72.020.

Chapter 28A.02 GENERAL PROVISIONS

Sections

- 28A.02.010 General public school system—Maintained.
- 28A.02.020 General public school system—Administration.
- 28A.02.030 United States flag—Procurement, display, exercises—National anthem—Noncompliance, penalty.
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- 28A.02.090 Temperance and Good Citizenship Day—Aids in programming.
- 28A.02.100 Receipt of federal funds for school purposes—Superintendent of public instruction to administer.
- 28A.02.120 School patrol, appointment, insignia and authority.
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Dissolution of inactive port districts, assets to school districts: RCW 53.47.040.

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Learning/language disabilities, screening for: RCW 28A.03.300–28A.03.320.

Rules and regulations incorporating due process guarantees of pupils—Informal due process procedures when suspension of students: RCW 28A.04.132.

School districts, purchase of leased lands with improvements by: RCW 79.01.770 through 79.01.778.

28A.02.010 General public school system—Maintained. A general and uniform system of public schools embracing the common schools shall be maintained throughout the state of Washington in accordance with Article IX of the state Constitution. [1969 ex.s. c 223 § 28A.02.010. Prior: 1909 c 97 p 230 § 1; RRS § 4518; prior: 1897 c 118 § 1; 1890 p 348 § 1. Formerly RCW 28.02.010.]

28A.02.020 General public school system—Administration. The administration of the public school system shall be entrusted to such state and local officials, boards, and committees as the state Constitution and the laws of the state shall provide. [1969 ex.s. c 223 § 28A.02.020. Prior: 1909 c 97 p 230 § 2; RRS § 4519; prior: 1897 c 118 § 19; 1890 p 348 § 2; Code 1881 §§ 3154, 3155; 1861 p 55 § 1. Formerly RCW 28.02.020.]

28A.02.030 United States flag—Procurement, display, exercises—National anthem—Noncompliance, penalty. The board of directors of every school district shall cause a United States flag being in good condition to be displayed during school hours upon or near every public school plant, except during inclement weather. They shall cause appropriate flag exercises to be held in every school at least once in each week, including but not limited to the opening of all school assemblies, at which exercises those pupils so desiring shall recite the following salute to the flag: "I pledge allegiance to the flag of the United States of America and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all". Students not reciting the pledge shall stand at respectful attention. The salute to the flag or the national anthem shall be rendered immediately preceding interschool events when feasible.

Any person willfully refusing or neglecting to comply with this section shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed ten dollars; and if any person acts in disregard of any school board order which attempts compliance with this section and such person is an employee of a school district, such action shall be grounds for discharge from such employment. [1969 ex.s. c 223 § 28A.02.030. Prior: (i) 1961 c 238 § 1; 1955 c 8 § 1; 1919 c 90 § 4; 1915 c 71 § 1; 1909 c 97 p 286 § 3; 1897 c 118 § 180; RRS § 4777. Formerly RCW 28.02.030. (ii) 1955 c 8 § 2; 1919 c 90 § 5; RRS § 4778. Formerly RCW 28.87.180.]

Display of national and state flags: RCW 1.20.015.

28A.02.040 Schools to be free from sectarian influence. See State Constitution Art. 9 § 4, and Art. 26.

28A.02.050 Law against discrimination applicable to districts' employment practices. The provisions of chapter 49.60 RCW as now or hereafter amended shall be applicable to the employment of any certificated or non-certificated employee by any school district organized in this state. [1969 ex.s. c 223 § 28A.02.050. Prior: (i) 1937 c 52 § 1; RRS § 4693-1. Formerly RCW 28.02-.050. (ii) 1937 c 52 § 2; RRS § 4693-2. Formerly RCW 28.02.051.]

28A.02.061 School holidays. The following are school holidays, and school shall not be taught on these days: Saturday; Sunday; the first day of January, commonly called New Year's Day; the third Monday in February, being the anniversary of the birth of George Washington; the last Monday in 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 eleventh day of November, to be known as Veterans' Day; the fourth Thursday in November, commonly known as Thanksgiving Day; the day immediately following Thanksgiving Day; the twenty-fifth day of December, commonly called Christmas Day: *Provided*, That no reduction from the teacher's time or salary shall be made by reason of the fact that a school day happens to be one of the days referred to in this section as a day on which school shall not be taught. [1975-'76 2nd ex.s.

c 24 § 2; 1973 c 32 § 1; 1969 ex.s. c 283 § 13. Prior: 1969 ex.s. c 223 § 28A.02.060; prior: 1955 c 20 § 2; 1909 c 97 p 308 § 6; RRS § 4853. Formerly RCW 28A.02.060, 28.02.060.]

Severability—1969 ex.s. c 283: "If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 283 § 59.] This applies to RCW 28A.02.061, 28A.02.070, 28A.04.060, 28A.58.100, 28A.58.610, 28A.67.066, 28A.67.074, 28A.93.010, 28A.93.020, 28A.93.030, 28B.10.720, 28B.50.140, 28B.50.145, 28B.50.170, 28B.50.551, 28B.50.571, 28B.50.572, 28B.50.573, 28B.50.574, 28B.50.575, 28B.50.580, 28B.50.850, 28B.50.851, 28B.50.852, 28B.50.855, 28B.50.856, 28B.50.857, 28B.50.860, 28B.50.861, 28B.50.862, 28B.50.863, 28B.50.864, 28B.50.867, 28B.50.868, 28B.50.869, 28C-.04.300, 28C.04.310 and 1969 ex.s. c 283 § 8 footnoted to RCW 28A.03.030.

"Legal holidays": RCW 1.16.050.

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.02.080 Study of Constitutions compulsory—Regulations to implement. The study of the Constitution of the United States and the Constitution of the state of Washington shall be a condition prerequisite to graduation from the public high schools of this state and from all private or parochial high schools whose work is accepted in lieu of work otherwise performed in the

public high schools. The state board of education acting upon the advice of the superintendent of public instruction shall provide by rule or regulation for the implementation of this section. [1969 ex.s. c 223 § 28A.02.080. Prior: (i) 1925 ex.s. c 134 § 1; RRS § 4898-1. (ii) 1925 ex.s. c 134 § 2; RRS § 4898-2. Formerly RCW 28.02.080 and 28.02.081.]

28A.02.090 Temperance and Good Citizenship Day—Aids in programming. On January 16th of each year or the preceding Friday when January 16th falls on a nonschool day, there shall be observed within each public school "Temperance and Good Citizenship Day". Annually the state superintendent of public instruction shall duly prepare and publish for circulation among the teachers of the state a program for use on such day embodying topics pertinent thereto and may from year to year designate particular laws for special observance. [1969 ex.s. c 223 § 28A.02.090. Prior: (i) 1923 c 76 § 1; RRS § 4901-1. (ii) 1923 c 76 § 2; RRS § 4901-2. Formerly RCW 28.02.090 and 28.02.095.]

28A.02.100 Receipt of federal funds for school purposes—Superintendent of public instruction to administer. The state of Washington and/or any school district is hereby authorized to receive federal funds made or hereafter made available by acts of congress for the assistance of school districts in providing physical facilities and/or maintenance and operation of schools, or for any other educational purpose, according to provisions of such acts, and the state superintendent of public instruction shall represent the state in the receipt and administration of such funds. [1969 ex.s. c 223 § 28A.02.100. Prior: 1943 c 220 § 4; Rem. Supp. 1943 § 5109-4. Formerly RCW 28.02.100.]

28A.02.120 School patrol, appointment, insignia and authority. See RCW 46.61.385.

28A.02.130 Uniform minor student capacity to borrow act. See chapter 26.30 RCW.

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.02.220 Private schools—Rights recognized. The state recognizes the following rights of every private school:

(1) To teach their religious beliefs and doctrines, if any; to pray in class and in assemblies; to teach patriotism including requiring students to salute the flag of the United States if that be the custom of the particular private school.

(2) To require that there shall be on file the written consent of parents or guardians of students prior to the administration of any psychological test or the conduct of any type of group therapy. [1974 ex.s. c 92 § 3; 1971 ex.s. c 215 § 5.]

Severability—1971 ex.s. c 215: "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 215 § 8.] This applies to RCW 28A.02.200 through 28A.02.240, 28A.04.120 and 28A.27.010.

28A.02.230 Private schools—Actions appealable under Administrative Procedure Act. Any private school may appeal the actions of the state superintendent of public instruction or state board of education as provided in chapter 34.04 RCW. [1974 ex.s. c 92 § 4; 1971 ex.s. c 215 § 6.]

28A.02.240 Private schools—Board rules for enforcement—Racial segregation or discrimination prohibited. The state board of education shall promulgate rules and regulations for the enforcement of RCW 28A.02.201 and 28A.02.210 through 28A.02.240, 28A.04.120 and 28A.27.010, including a provision which denies approval to any school engaging in a policy of racial segregation or discrimination. [1974 ex.s. c 92 § 5; 1971 ex.s. c 215 § 7.]

28A.02.250 Private school advisory committee—Superintendent's recommendations to legislature. The superintendent of public instruction is hereby directed to appoint a private school advisory committee that is broadly representative of educators, legislators, and various private school groups in the state of Washington. By July 1 of 1975, after consultation with the advisory committee herein created, the superintendent of public instruction shall make recommendations to the legislature concerning how the approval and accreditation processes for private schools can be improved. [1974 ex.s. c 92 § 6.]

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

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- 28A.03.013 Election—Office as nonpartisan.
- 28A.03.014 Election—No primary if no more than two candidates, procedure.
- 28A.03.015 Election—Returns of elections, canvass, etc., under Constitution.
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- 28A.03.064 Educational service district circulating library, materials disapproved by superintendent not allowed in.
- 28A.03.065 County committees on school district organization, superintendent to furnish personnel and supplies for, reimburse expenses.
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- Professional certification not to be required of superintendent, deputy or assistant superintendents: RCW 28A.02.260.*
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- State board for community college education—Program for military personnel—Restrictions as to high school completion program: RCW 28B.50.092.*
- State supported environmental study centers, superintendent's duties relating thereto: RCW 28A.21.300.*

28A.03.010 Election—Term of office. A superintendent of public instruction shall be elected by the qualified electors of the state, on the first Tuesday after the first Monday in November of the year in which state officers are elected, and shall hold his office for the term of four years, and until his successor is elected and qualified. [1969 ex.s. c 223 § 28A.03.010. Prior: 1909 c 97 p 231 § 1; RRS § 4521; prior: 1897 c 118 § 20; 1891 c 127 § 1; 1890 p 348 § 3; Code 1881 § 3154; 1873 p

419 § 1; 1861 p 55 § 1. Formerly RCW 28.03.010; 43.11.010.]

28A.03.013 Election—Office as nonpartisan. See RCW 29.21.080.

28A.03.014 Election—No primary if no more than two candidates, procedure. See RCW 29.21.180.

28A.03.015 Election—Returns of elections, canvass, etc., under Constitution. See state Constitution Art. 3 § 4.

28A.03.016 Term of office—Under Constitution. See state Constitution Art. 3 § 6.

28A.03.017 Executive office under Constitution. See state Constitution Art. 3 § 1.

28A.03.018 Qualifications under Constitution. See state Constitution Art. 3 § 25 (Amendment 31).

28A.03.020 Assistant superintendents, deputy superintendent, assistants—Terms for exempt personnel. The superintendent of public instruction may appoint assistant superintendents of public instruction, a deputy superintendent of public instruction, and may employ such other assistants and clerical help as are necessary to carry out the duties of the superintendent and the state board of education. The assistant superintendents, deputy superintendent, and such other officers and employees as are exempted from the provisions of chapter 41.06 RCW, shall serve at the pleasure of the superintendent. [1969 ex.s. c 223 § 28A.03.020. Prior: 1967 c 158 § 3; 1909 c 97 p 234 § 4; RRS § 4524; prior: 1905 c 56 § 1; 1903 c 104 § 10; 1897 c 118 § 23; 1890 p 351 § 5. Formerly RCW 28.03.020; 43.11.020.]

28A.03.025 Administrative officers—Division for handicapped children, supervisor. See RCW 28A.13.020.

28A.03.026 Administrative officers—Division of recreation, supervisor. See RCW 28A.14.020.

28A.03.027 Administrative officers—Organization and school plant facilities division, director. See RCW 28A.04.300 and 28A.04.310.

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.03.031 Duties and salary under Constitution. See state Constitution Art. 3 § 22; Art. 28 § 1 (Amendment 20).

28A.03.032 Salary. See RCW 43.03.010.

28A.03.033 Compensation limitation under Constitution. See state Constitution Art. 3 § 25 (Amendment 31).

28A.03.035 Oath of office. See RCW 43.01.020.

28A.03.036 Records to be kept at seat of government under Constitution. See state Constitution Art. 3 § 24, as modified by Art. 2 § 42 (Amendment 39).

28A.03.037 Offenses and penalties relating to superintendent and employees. See chapter 28A.87 RCW.

28A.03.045 Employees of, seniority, leave and other employee benefits. See RCW 28A.58.100.

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.03.061 Child center for research and training in mental retardation, superintendent as member of advisory committee. See RCW 28B.20.412.

28A.03.064 Educational service district circulating library, materials disapproved by superintendent not allowed in. See RCW 27.16.050.

28A.03.065 County committees on school district organization, superintendent to furnish personnel and supplies for, reimburse expenses. See RCW 28A.57.110.

28A.03.066 School district transportation commission, superintendent to have representative on, appoint members. See RCW 28A.24.080.

28A.03.067 Current state school fund, estimate of apportionment demands, annual apportionments, by superintendent. See RCW 28A.41.040 and 28A.48.010.

28A.03.070 Traffic safety education courses, superintendent's powers and duties relating to. See chapter 46.81 RCW.

28A.03.071 Driving instructor's examination committee, superintendent to have representative on. See RCW 46.82.140.

28A.03.072 Federal funds, receipt and administration of by superintendent. See RCW 28A.02.100.

28A.03.073 Recreation, division of, superintendent's duties relating to. See chapter 28A.14 RCW.

28A.03.074 Handicapped children, division for, superintendent's duties relating to. See chapter 28A.13 RCW.

28A.03.076 Motor vehicle fund distribution, information obtained from superintendent for. See RCW 46.68.120(c).

28A.03.077 Natural resources, board of, superintendent as member. See RCW 43.30.040.

28A.03.079 School buses, design, marking, mode of operation, superintendent to adopt and enforce regulations for. See RCW 46.61.380.

28A.03.080 School district hot lunch program, superintendent's duties under. See chapter 28A.30 RCW.

28A.03.081 State capitol historical association, superintendent as ex officio board member. See RCW 27.36.040.

28A.03.082 State library commission, superintendent as ex officio chairman of. See RCW 27.04.020.

28A.03.083 State voting machine committee, superintendent as member of. See RCW 29.33.030.

28A.03.084 Students of superior capacity, division of, superintendent's duties relating to. See chapter 28A.16 RCW.

28A.03.085 Teachers' retirement board of trustees, superintendent as ex officio member. See RCW 41.32.040.

28A.03.086 State traffic safety commission, superintendent as member of. See RCW 43.59.030.

28A.03.087 Joint school district educational facilities, services or programs, superintendent's duties relating to. See RCW 28A.58.075.

28A.03.088 Educational service districts, allocation of state funds to, superintendent's duties relating to. See RCW 28A.21.140.

28A.03.089 Educational service districts system, superintendent's duties generally relating to. See chapter 28A.21 RCW.

28A.03.090 Voluntary, tuition free attendance programs among school districts, superintendent's duties relating to. See RCW 28A.58.245.

28A.03.091 State board of education, superintendent as ex officio president and chief executive officer of. See RCW 28A.04.090.

28A.03.092 URRD educational programs, superintendent's duties relating to. See RCW 28A.41.250 through 28A.41.290.

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.03.200 State otologist to cooperate with. See RCW 70.50.020.

28A.03.210 Reports of attendance at private schools to be sent to. See RCW 28A.48.055.

28A.03.230 Handicapped children, commitment of, notice to. See RCW 26.40.060.

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.65.445, 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-'76 2nd ex.s. c 118 § 23; 1975 1st ex.s. c 5 § 1.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.03.360 Achievement level surveys—Scope—Purpose—Procedure. (1) It shall be the intent and purpose of this section to direct the office of superintendent of public instruction to conduct standardized reading, mathematics, and language arts achievement level surveys of approximately two thousand students distributed throughout the state in each of the grade levels eight and eleven during such testing cycles as provided for in subsection (2) of this section. The survey testing shall be based on a statistical random sample of students from these grade levels sufficient to generalize about all of the students at each of the selected grade levels from the state's school districts. The purpose of these surveys is to allow the public and the legislature to evaluate how Washington students in these grades compare to students in the same grades tested in other comparable national achievement surveys. The office of superintendent of public instruction shall coordinate such tests and provide such information as obtained therefrom to the legislature no less often than once every four years.

(2) The superintendent of public instruction shall prepare a report to the legislature on the achievement levels of students in grades eight and eleven based on the achievement level surveys conducted in the 1975-77 biennium and for each of the subsequent testing cycles as designated by the superintendent of public instruction's office. Such report shall include a comparison of the achievement levels attained by Washington students to the levels attained by students outside of the state, with special emphasis placed on the basic skills of reading, mathematics, and language arts. Such report shall also focus on appropriate input variables and comparisons of variables reported by other states' testing programs.

(3) Results of the first survey test shall be made available to the school districts and the legislature no later than June 30, 1977.

(4) In addition to the survey testing for grades eight and eleven as set forth in this section, every school district is encouraged to test pupils in grade two by an assessment device designed or selected by the local school districts. This test shall be used to help teachers

in identifying those pupils in need of assistance in the skills of reading, writing, mathematics, and language arts. The test results are not to be compiled by the superintendent of public instruction, but are only to be used by the local school district.

(5) The superintendent of public instruction shall prepare, with the assistance of local school districts, and conduct a standardized achievement test to be given annually to all pupils in grade four. The test shall assess students' skill in reading, mathematics, and language arts and shall focus upon appropriate input variables. Results of such tests shall be compiled by the superintendent of public instruction, who shall make those results available annually to the legislature, to all local school districts and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels and input variables of their children as compared with the other students within the district, the state and, if applicable, the nation. [1975-'76 2nd ex.s. c 98 § 1.]

Appropriation—1975-'76 2nd ex.s. c 98: "There is hereby appropriated to the superintendent of public instruction the sum of three hundred thousand dollars from the state general fund to be expended only in the amount necessary and exclusively for implementing the provisions of this 1976 amendatory act." [1975-'76 2nd ex.s. c 98 § 2.]

Effective date—1975-'76 2nd ex.s. c 98: "This 1976 amendatory act shall take effect on July 1, 1976." [1975-'76 2nd ex.s. c 98 § 3.]

The above annotations apply to RCW 28A.03.360.

Chapter 28A.04 STATE BOARD OF EDUCATION

Sections

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- 28A.04.020 Call and notice of election.
- 28A.04.030 Elections in new congressional districts—Call and conduct of—Member terms.
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School district associations, right to mortgage or convey money security interest in association property—Limitations—Board rules and regulations: RCW 28A.58.0401.

State board for community college education—Program for military personnel—Restrictions as to high school completion program: RCW 28B.50.092.

28A.04.010 Composition of board. The state board of education shall be comprised of two members from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided. [1969 ex.s. c 223 § 28A.04.010. Prior: 1955 c 218 § 1; 1947 c 258 § 1; 1925 ex.s. c 65 § 1; 1909 c 97 p 234 § 1; RRS § 4525; prior: 1907 c 240 § 2; 1901 c 177 § 6; 1897 c 118 § 24; 1890 p 352 § 6; Code 1881 § 3163. Formerly RCW 28.04.010; 43.63.010.]

28A.04.020 Call and notice of election. Not later than the twenty-fifth day of August of each year, the superintendent of public instruction shall call an election to be held in each congressional district within which resides a member of the state board of education whose term of membership will end on the second Monday of January next following, and shall give written notice thereof to each member of the board of directors of each school district in such congressional district. Such notice

shall include instructions, rules and regulations established by the superintendent of public instruction for the conduct of the election. [1969 ex.s. c 223 § 28A.04.020. Prior: 1955 c 218 § 2; 1947 c 258 § 2; Rem. Supp. 1947 § 4525-1. Formerly RCW 28.04.020; 43.63.020.]

28A.04.030 Elections in new congressional districts—Call and conduct of—Member terms. Whenever any new and additional congressional district is created, except a congressional district at large, the superintendent of public instruction shall call an election in such district at the time of making the call provided for in RCW 28A.04.020. Such election shall be conducted as other elections provided for in this chapter. At the first such election two members of the state board of education shall be elected, one for a term of three years and one for a term of six years. At the expiration of the term of each, a member shall be elected for a term of six years. [1969 ex.s. c 223 § 28A.04.030. Prior: 1955 c 218 § 3. Formerly RCW 28.04.030; 43.63.021.]

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.04.050 Qualifications of voters—Ballots—Candidates' biographical data. Each member of the

board of directors of each school district in each congressional district shall be eligible to vote for the candidates who reside in his congressional district. Not later than the first day of October the superintendent of public instruction shall mail to each member of each board of directors the proper ballot for his congressional district together with biographical data concerning each candidate listed on such ballot, which data shall have been prepared by the candidate. [1969 ex.s. c 223 § 28A.04.050. Prior: 1955 c 218 § 6. Formerly RCW 28.04.050; 43.63.025.]

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.04.070 Terms of office. The term of office of each member of the state board of education shall begin on the second Monday in January next following the election at which he was elected, and he shall hold office for the term for which he was elected and until his successor is elected and qualified. Except as otherwise provided in RCW 28A.04.030, each member of the state board of education shall be elected for a term of six years. [1969 ex.s. c 223 § 28A.04.070. Prior: 1955 c 218 § 7; 1947 c 258 § 9; Rem. Supp. 1947 § 4525-8. Formerly RCW 28.04.070; 43.63.090.]

28A.04.080 Vacancies, filling. Whenever there shall be a vacancy upon the state board of education, from any cause whatever, it shall be the duty of the remaining members of the board to fill such vacancy by appointment, and the person so appointed shall continue in office until his successor has been specially elected, as hereinafter in this section provided, and has qualified. Whenever a vacancy occurs, the superintendent of public instruction shall call, in the month of August next following the date of the occurrence of such vacancy, a special election to be held in the same manner as other elections provided for in this chapter, at which election a successor shall be elected to hold office for the unexpired term of the member whose office was vacated. [1969 ex.s. c 223 § 28A.04.080. Prior: 1955 c 218 § 8; 1947 c

258 § 10; Rem. Supp. 1947 § 4525-9. Formerly RCW 28.04.080; 43.63.100.]

28A.04.090 Superintendent as ex officio president and chief executive officer of board. The superintendent of public instruction shall be ex officio president and the chief executive officer of the board. As such ex officio president the superintendent shall have the right to vote only when there is a question before the board upon which no majority opinion has been reached among the board members present and voting thereon and the superintendent's vote is essential for action thereon. The superintendent, as chief executive officer of the board, shall furnish all necessary record books and forms for its use, and shall represent the board in directing the work of school inspection. [1969 ex.s. c 223 § 28A.04.090. Prior: 1967 c 158 § 2; 1909 c 97 p 235 § 2; RRS § 4526. Formerly RCW 28.04.090; 43.63.110.]

28A.04.100 Ex officio secretary of board. The superintendent of public instruction shall appoint some person to be ex officio secretary of said board who shall not be entitled to a vote in its proceedings. The secretary shall keep a correct record of board proceedings in a good and well-bound book, which shall be kept in the office of the superintendent of public instruction. He shall also, upon request, furnish to interested school officials a certified copy of such proceedings. [1969 ex.s. c 223 § 28A.04.100. Prior: 1909 c 97 p 235 § 3; RRS § 4527. Formerly RCW 28.04.100; 43.63.120.]

Records of meetings kept by superintendent of public instruction: RCW 28A.03.030.

28A.04.110 Meetings—Travel expenses reimbursed. The state board of education shall hold an annual meeting and such other regular meetings at such time and place within the state as the board shall determine and may hold such special meetings as may be deemed necessary for the transaction of public business, such special meetings to be called by the superintendent of public instruction, or by a majority of the board. The persons serving as members of the state board of education shall be reimbursed by the superintendent of public instruction for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended incurred in the performance of their duties which expenses shall be paid by the state treasurer on warrants out of funds appropriated or otherwise available, upon the order of the superintendent. [1975-'76 2nd ex.s. c 34 § 67; 1973 c 106 § 13; 1969 ex.s. c 223 § 28A.04.110. Prior: 1909 c 97 p 235 § 4; RRS § 4528. Formerly RCW 28.04.110; 43.63.130.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Records of meetings kept by superintendent of public instruction: RCW 28A.03.030.

State treasurer to issue state warrants: RCW 43.88.160.

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, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such 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 such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(3) Supervise the issuance of such certificates as provided for in subsection (1) above 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 list of accredited schools 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-'76 2nd ex.s. c 92 § 1; 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.]

Severability—1975-'76 2nd ex.s. c 92: "If any provision of this 1976 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-'76 2nd ex.s. c 92 § 6.] This applies to RCW 28A.04.120, 28A.70.005, 28A.70.110, 28A.70.130 and 28A.70.140.

Professional certification not to be required of superintendents, deputy or assistant superintendent: RCW 28A.02.260.

28A.04.130 Classification, numbering system of school districts—Rules and regulations for. The state board of education is hereby empowered, and it shall be the duty of said board, to prescribe rules and regulations governing the classification and numbering system of school districts, except as otherwise provided by law. [1971 c 54 § 1; 1969 ex.s. c 223 § 28A.04.130. Prior: 1917 c 21 § 2; RRS § 4711. Formerly RCW 28.04.130; 28.01.040, part; 43.63.150.]

Severability—1971 c 54: "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 54 § 2.] This applies to RCW 28A.04.130.

28A.04.131 School bus drivers, training and qualifications—Rules and regulations for. In addition to other powers and duties, the state board of education shall adopt rules and regulations governing the training and qualifications of school bus drivers. Such rules and regulations shall be designed to insure that persons will not be employed to operate school buses unless they possess such physical health and driving skills as are necessary to safely operate school buses: *Provided*, That such rules and regulations shall not conflict with the authority of the department of motor vehicles to license school bus drivers in accordance with RCW 46.20.440 through 46.20.470. [1969 ex.s. c 153 § 4.]

28A.04.132 Rules and regulations incorporating due process guarantees of pupils—Informal due process procedures when suspension of students. The state board of education shall adopt and distribute to all school districts lawful and reasonable rules and regulations prescribing the substantive and procedural due process guarantees of pupils in the common schools. Such rules

and regulations shall authorize a school district to use informal due process procedures in connection with the short term suspension of students to the extent constitutionally permissible: *Provided*, That the state board deems the interest of students to be adequately protected. [1975-'76 2nd ex.s. c 97 § 1; 1971 ex.s. c 268 § 2.]

28A.04.133 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 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.04.135 Certificate of educational competence, rules for issuance. The state board of education shall adopt rules and regulations governing the conditions by and under which a certificate of educational competence may be issued to a person nineteen years of age or older, and a child fifteen years of age and under nineteen years of age when such a child can evidence substantial and warranted reason for leaving the regular high school education program. [1973 c 51 § 2.]

Severability—1973 c 51: See note following RCW 28A.27.010.

28A.04.137 Student financial assistance program, rules for administration. In addition to other powers and duties, the state board of education shall adopt rules and regulations for the administration of a student financial assistance program for needy and disadvantaged elementary and secondary students as provided for in RCW 28A.58.700 through 28A.58.707. [1973 c 81 § 1.]

Severability—1973 c 81: See note following RCW 28A.58.700.

28A.04.140 Seal. The state board of education shall adopt a seal which shall be kept in the office of the superintendent of public instruction. [1969 ex.s. c 223 § 28A.04.140. Prior: 1909 c 97 p 238 § 7; RRS § 4531. Formerly RCW 28.04.140; 28.01.040, part; 43.63.160.]

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.

28A.04.160 Intermediate school district circulating library, materials disapproved by board not allowed in. See RCW 27.16.050.

28A.04.200 Contracts and obligations for community college facilities, board duties and responsibilities relating to. See RCW 28B.50.750.

28A.04.203 Maple Lane School, board to supervise educational work. See RCW 72.20.080.

28A.04.204 Nonhigh school district capital fund aid to high school districts, board duties concerning plan for. See chapter 28A.56 RCW

28A.04.205 Nursery schools, board to make rules and regulations concerning. See RCW 28A.34.020.

28A.04.206 Studies, courses of instruction, board to prescribe. See chapter 28A.05 RCW.

28A.04.207 Teachers' retirement board of trustees, board to choose members of. See RCW 41.32.040.

28A.04.208 Vocational education programs, board may authorize. See RCW 28A.09.100.

28A.04.210 Youth development and conservation committee, board representation on. See RCW 43.51.520.

28A.04.230 Certification of personnel employed in the common schools, board duties concerning. See chapter 28A.70 RCW.

28A.04.260 List of high school districts certified by state board. See RCW 28A.44.060.

28A.04.265 Joint school district financing plan involving construction of school facilities, board duties concerning. See RCW 28A.58.075.

28A.04.275 Transfer of records to educational service district headquarters office, board duties concerning. See RCW 28A.21.120.

28A.04.280 Educational service district system, board duties concerning. See RCW 28A.21.020.

28A.04.285 Educational service district board-member districts, board duties concerning. See RCW 28A.21.030.

28A.04.300 Washington state school building systems project—**Organization and school plant facilities division established.** An organization and school plant facilities division of the state office of the superintendent of public instruction is hereby established and required to develop and implement a state schools construction project to be known as the Washington state school building systems project. [1971 ex.s. c 238 § 1.]

28A.04.310 Washington state school building systems project—**Rules and regulations—Developing project—Staff—Project scope—Advisory board—Implementing and cut-off date—Evaluation report.** (1) As used in this section "director" means the director of the organization and school plant division of the office of state superintendent of public instruction.

(2) The director shall, subject to the approval of the state board of education, establish reasonable rules and regulations for the proper development and implementation of the school building systems project.

(3) The director, with the approval of the superintendent of public instruction, may employ such other technical and professional assistance as he may see fit, including architectural and engineering firms engaged in private practice who may be employed on a contract basis, and shall cause to be developed and implemented a state school building systems project which will allow flexibility in the use of systems construction procedures to produce schools which will suit the needs of the children of this state, taking into account

- (a) Differences in climatic conditions of the state;
- (b) Differences in size of school enrollment;
- (c) Differences in curricula and educational programs;
- (d) Differences in directional orientation of school buildings;
- (e) Differences in terrain of school sites;
- (f) Differences in various building code requirements of state and local governments.

A board of advisors made up of two educators, two architects, three engineers, (one electrical, one structural, and one mechanical engineer), three contractors, (one mechanical, one electrical and one general contractor), two manufacturers and two representatives from the building trade unions shall be appointed by the state board of education to advise the director regarding the state school building systems project. Advisory committee members shall be reimbursed their expenses on the basis of the allowance provided by RCW 43.03.050 and 43.03.060.

(4) After July 1, 1973, the director shall make the Washington state school building system available to all school districts in the state which may participate in the project on a voluntary basis.

(5) The Washington state school building systems project shall provide the use of building subsystems which shall, insofar as reasonably possible, include, but not be limited to, structure, ceiling and lighting, heating, ventilating and air conditioning, and interior partitions, which shall be produced to meet a performance specification and which may be bid on a state-wide basis for schools participating in the state school building systems project.

(6) The specifications for the state school building systems project shall be prepared with the view toward utilizing system type construction to the fullest extent and toward allowing contractors to utilize to the fullest extent modern industrial techniques of mass production and prefabrication and shall be prepared to encourage uniqueness and individuality of design for the different schools constructed in the state school building systems project.

(7) This state school building systems project shall have an effective date of July 1, 1971, an implementation date of no later than July 1, 1973, and shall continue for a period to end on June 30, 1977. An evaluation of the systems building project including a cost effectiveness analysis comparing systems project schools with nonsystems schools shall be submitted by the director to the legislature no later than February 15, 1977. [1971 ex.s. c 238 § 2.]

Chapter 28A.05 COMPULSORY COURSES

Sections

28A.05.010 Common school curriculum—Fundamentals in conduct.

28A.05.015 Students taught in English language—Exception.

28A.05.030 Physical education in grades one through eight.

28A.05.040 Physical education in high schools.

28A.05.050 History and government in high schools.

Courses of study, certificated employees to enforce: RCW 28A.67.060.

Courses of study, state board of education duties: RCW 28A.04.120.

28A.05.010 Common school curriculum—Fundamentals in conduct. All common schools shall give instruction in reading, penmanship, orthography, written and mental arithmetic, geography, English grammar, physiology and hygiene with special reference to the effects of alcoholic stimulants and narcotics on the human system, the history of the United States, and such other studies as may be prescribed by rule or regulation of the state board of education. All teachers shall stress the importance of the cultivation of manners, the fundamental principles of honesty, honor, industry and economy, the minimum requisites for good health including the beneficial effect of physical exercise, and the worth of kindness to all living creatures. [1969 c 71 § 3; 1969 ex.s. c 223 § 28A.05.010. Prior: 1909 p 262 § 2; RRS § 4681; prior: 1897 c 118 § 65; 1895 c 5 § 1; 1890 p 372 § 45; 1886 p 19 § 52. Formerly RCW 28.05.010 and 28.05.020.]

28A.05.015 Students taught in English language—Exception. All students in the common schools of the state of Washington shall be taught in the English language: *Provided*, That nothing in this section shall preclude the teaching of students in a language other than English when such instruction will aid the educational advancement of the student. [1969 c 71 § 4. Like section formerly RCW 28.05.015.]

28A.05.030 Physical education in grades one through eight. For periods averaging at least twenty minutes in each school day, every pupil attending grades one

through eight of the public schools shall receive instruction in such courses of physical education as prescribed by rule or regulation of the state board of education: *Provided*, That individual pupils or students may be excused on account of physical disability, religious belief or participation in directed athletics. [1969 ex.s. c 223 § 28A.05.030. Prior: 1919 c 89 § 1; RRS § 4682. Formerly RCW 28.05.030.]

28A.05.040 Physical education in high schools. All high schools of the state shall emphasize the work of physical education, and carry into effect all such courses as required by rule or regulation of the state board of education, which shall provide for a minimum of ninety minutes in each school week: *Provided*, That individual students may be excused on account of physical disability, employment or religious belief, or because of participation in directed athletics or military science and tactics: *Provided further*, That individual high school students shall be excused therefrom upon the written request of parents or guardians. [1969 ex.s. c 223 § 28A.05.040. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28.05.040, part.]

28A.05.050 History and government in high schools. To promote good citizenship and a greater interest in and better understanding of our national and state institutions and system of government, the state board of education shall prescribe a one-year course of study in the history and government of the United States, and the equivalent of a one-semester course of study in the state of Washington's history and government. No person shall be graduated from high school without completing such courses of study: *Provided*, That students in the twelfth grade who have not completed such a course of study in Washington's history and state government because of previous residence outside the state may have the foregoing requirement waived by their principal. [1969 ex.s. c 57 § 2; 1969 ex.s. c 223 § 28A.05.050. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28.05.050.]

Chapter 28A.08 DRIVER EDUCATION COURSES (See chapter 46.81 RCW)

Chapter 28A.09 VOCATIONAL EDUCATION GENERALLY (See chapter 28C.04 RCW)

Chapter 28A.10 VOCATIONAL REHABILITATION AND SERVICES FOR HANDICAPPED PERSONS

Sections

28A.10.005 Purpose.

28A.10.010 Definitions—"State agency"

28A.10.020 Powers and duties of state agency.

- 28A.10.025 Additional duties of state agency—State-wide program—Rules and regulations—Annual report.
- 28A.10.037 Vocational rehabilitation services to be made available to state and public agencies.
- 28A.10.050 Acceptance of federal aid—Generally.
- 28A.10.055 Acceptance of federal aid—Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds.
- 28A.10.080 Purchase of vocational rehabilitation services for handicapped persons—Procedure—Post audit review.
- 28A.10.100 Sheltered employment and supervised work programs—Purpose.
- 28A.10.105 Sheltered employment and supervised work programs—"A disadvantaged person" defined for chapter purposes.
- 28A.10.110 Sheltered employment and supervised work programs—Federal funds.

Department of social and health services (including division of vocational rehabilitation): Chapter 43.20A RCW.

Investment of industrial insurance funds in student loans for vocational training and education: RCW 51.44.100.

28A.10.005 Purpose. The purposes of this chapter are (1) to rehabilitate vocationally handicapped persons so that they may prepare for and engage in a gainful occupation; (2) to provide persons with physical or mental disabilities with a program of services which will result in greater opportunities for them to enter more fully into the life of the community; (3) to promote activities which will assist the vocationally handicapped to reach their fullest potential; and (4) to encourage and develop facilities and other resources needed by the handicapped. [1969 ex.s. c 223 § 28A.10.005. Prior: 1967 c 118 § 1. Formerly RCW 28.10.005.]

28A.10.010 Definitions—"State agency". (1) "Handicapped person" means any individual:

(a) Who has a physical or mental disability, which constitutes a substantial handicap to employment, of such a nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a gainful occupation consistent with his capacities and abilities; or

(b) Who, because of lack of social competence or mobility, experience, skills, training, or other factors, is in need of vocational rehabilitation services in order to become fit to engage in a gainful occupation or to attain or maintain a maximum degree of self-support or self-care; or

(c) For whom vocational rehabilitation services are necessary to determine rehabilitation potential.

(2) "Physical or mental disability" means a physical or mental condition which materially limits, contributes to limiting or, if not corrected, will probably result in limiting an individual's activities or functioning. The term includes behavioral disorders characterized by deviant social behavior or impaired ability to carry out normal relationships with family and community which may result from vocational, educational, cultural, social, environmental or other factors.

(3) "Vocational rehabilitation services" means goods or services provided handicapped persons to enable such persons to be fit for gainful occupation or to attain or maintain a maximum degree of self-support or self-care and includes every type of goods and services for which

federal funds are available for vocational rehabilitation purposes, including, but not limited to, the establishment, construction, development, operation and maintenance of workshops and rehabilitation facilities.

(4) "Self-care" means a reasonable degree of restoration from dependency upon others for personal needs and care and includes but is not limited to ability to live in own home, rather than requiring nursing home care and care for self rather than requiring attendant care.

(5) "State agency" means the department of social and health services. [1970 ex.s. c 18 § 52; 1969 ex.s. c 223 § 28A.10.010. Prior: 1967 ex.s. c 8 § 41; 1967 c 118 § 2; 1957 c 223 § 1; 1933 c 176 § 2; RRS § 4925-2. Formerly RCW 28.10.010.]

Effective date—Severability—1970 ex.s. c 18: See note following RCW 43.20A.010.

28A.10.020 Powers and duties of state agency. The state agency shall:

(1) Provide vocational rehabilitation services to handicapped persons, including the placing of such persons in gainful occupations;

(2) Disburse all funds provided by law and may receive, accept and disburse such gifts, grants, conveyances, devises and bequests of real and personal property from public or private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out vocational rehabilitation services as specified by law and the regulations of the state agency; and may sell, lease or exchange real or personal property according to the terms and conditions thereof. Any money so received shall be deposited in the state treasury for investment, reinvestment or expenditure in accordance with the conditions of its receipt and RCW 43.88.180;

(3) Appoint and fix the compensation and prescribe the duties, of the personnel necessary for the administration of this chapter, unless otherwise provided by law;

(4) Make exploratory studies, make reviews, and do research relative to vocational rehabilitation. [1969 ex.s. c 223 § 28A.10.020. Prior: 1967 ex.s. c 8 § 42; 1967 c 118 § 6; 1963 c 135 § 1; 1957 c 223 § 3; 1933 c 176 § 3; RRS § 4925-3. Formerly RCW 28.10.030.]

28A.10.025 Additional duties of state agency—State-wide program—Rules and regulations—Annual report. The state agency shall:

(1) Develop a state-wide vocational rehabilitation program;

(2) Adopt rules, in accord with chapter 34.04 RCW, necessary to carry out the purposes of this chapter; and

(3) Report annually to the governor, and to the legislature at least ten days prior to each regular session, on the administration of this chapter. [1969 ex.s. c 223 § 28A.10.025. Prior: 1967 c 118 § 5. Formerly RCW 28.10.035.]

28A.10.037 Vocational rehabilitation services to be made available to state and public agencies. The state agency shall make available vocational rehabilitation services to the departments of institutions, labor and industries, public assistance, and employment security,

and other state or other public agencies, in accordance with cooperative agreements between the state agency and the respective agencies. [1969 ex.s. c 223 § 28A.10.037. Prior: 1967 ex.s. c 8 § 45; 1967 c 118 § 7. Formerly RCW 28.10.037.]

28A.10.050 Acceptance of federal aid——Generally. The state of Washington does hereby:

(1) Accept the provisions and maximum possible benefits resulting from any acts of congress which provide benefits for the purposes of this chapter;

(2) Designate the state treasurer as custodian of all moneys received by the state from appropriations made by the congress of the United States for purposes of this chapter, and authorize the state treasurer to make disbursements therefrom upon the order of the state agency; and

(3) Empower and direct the state agency to cooperate with the federal government in carrying out the provisions of this chapter or of any federal law or regulation pertaining to vocational rehabilitation, and to comply with such conditions as may be necessary to assure the maximum possible benefits resulting from any such federal law or regulation. [1969 ex.s. c 223 § 28A.10.050. Prior: 1967 ex.s. c 8 § 43; 1967 c 118 § 9; 1957 c 223 § 5; 1955 c 371 § 1; 1933 c 176 § 5; RRS § 4925-5. Formerly RCW 28.10.050.]

28A.10.055 Acceptance of federal aid——Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds. If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict, and such findings or determination shall not affect the operation of the remainder of this chapter. [1969 ex.s. c 223 § 28A.10.055. Prior: 1967 c 118 § 10. Formerly RCW 28.10.055.]

28A.10.080 Purchase of vocational rehabilitation services for handicapped persons——Procedure—Post audit review. (1) The state agency may purchase, from any source, by contract, vocational rehabilitation services for handicapped persons, payments for such services to be made subject to procedures and fiscal controls approved by the director of program planning and fiscal management. The performance of and payment for such services shall be subject to post audit review by the state auditor.

(2) Notwithstanding any other provision of RCW 28A.10.080, 28A.10.100, 28A.10.105 and 28A.10.110, when the state agency determines that a mentally retarded, severely handicapped, or disadvantaged person can reasonably be expected to benefit from, or in his best interests reasonably requires extended sheltered employment or supervised work furnished by an approved non-profit organization, the state agency is authorized to contract with such organization for the furnishing of such sheltered employment or supervised work to such

mentally retarded, severely handicapped, or disadvantaged person. The state agency is authorized to expend for or toward the cost of providing such sheltered employment or supervised work a sum or sums not to exceed one thousand five hundred dollars per annum for each such mentally retarded, severely handicapped, or disadvantaged person in order to maintain him as a contributing and self-supporting member of society as an alternative to dependency: *Provided*, That the state agency is authorized to expend in excess of one thousand five hundred dollars per annum for each such mentally retarded, severely handicapped, or disadvantaged person when federal or other funding becomes available to the state agency for such purpose and such additional expenditures may continue as long as the additional federal or other funding is or becomes available.

(3) The determination of eligibility for such service shall be made for each individual by the state agency. The mentally retarded, severely handicapped and disadvantaged individuals served under this law shall be construed to be poor or infirm within the meaning of the term as used in the state Constitution.

(4) The state agency shall maintain a register of non-profit organizations which it has inspected and certified as meeting required standards and as qualifying to serve the needs of such mentally retarded, severely handicapped, or disadvantaged persons. Eligibility of such organizations to receive the funds hereinbefore specified shall be based upon standards and criteria promulgated by the state agency.

(5) The state agency is authorized to promulgate such rules and regulations as it may deem necessary or proper to carry out the provisions of this section. [1972 ex.s. c 15 § 1; 1970 ex.s. c 18 § 53; 1970 ex.s. c 15 § 23; 1969 ex.s. c 223 § 28A.10.080. Prior: 1969 c 105 § 2; 1967 ex.s. c 8 § 46; 1967 c 118 § 8. Formerly RCW 28.10.080.]

Severability——1970 ex.s. c 15: See note following RCW 28A.02.070.

28A.10.100 Sheltered employment and supervised work programs——Purpose. The purpose of RCW 28A.10.080, 28A.10.100, 28A.10.105 and 28A.10.110 is to encourage the development, improvement, and expansion of sheltered employment and supervised work programs for mentally retarded, severely handicapped and disadvantaged individuals to enable them to become contributing and self-supporting members of society as an alternative to dependency.

The condition of the mentally retarded, severely handicapped and disadvantaged is such that after laborious training in the schools and otherwise, they reach the point in their lives where they can and should, under proper and continued guidance, engage in sheltered employment and/or supervised work to help them become contributing members of society instead of being dependent. For such persons, retention in sheltered employment or supervised work may constitute satisfactory placement. Such training and placement is often a suitable alternative to institutionalization or idleness and its consequences. By keeping these individuals within their communities and in touch with their families, a

worthwhile dimension is added to their lives and they are thus spared the anxieties naturally attached to separation. All of these factors have also been shown to reflect tangible benefits upon the mentally retarded, severely handicapped or disadvantaged person by improving his overall well-being. [1970 ex.s. c 15 § 24; 1969 c 105 § 1. Formerly RCW 28.10.100.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

28A.10.105 Sheltered employment and supervised work programs—“A disadvantaged person” defined for chapter purposes. “A disadvantaged person” as used in chapter 28A.10 RCW shall mean a person who is disadvantaged in his ability to secure or maintain appropriate employment by reason of physical or mental disability, youth, advanced age, low educational attainment, ethnic or cultural factors, prison or delinquency records or any other condition, especially in association with poverty and deprivation which constitutes a barrier to such employment. [1969 c 105 § 3. Formerly RCW 28.10.105.]

28A.10.110 Sheltered employment and supervised work programs—Federal funds. It is further provided that any federal funds available may be used to supplement RCW 28A.10.080, 28A.10.100, 28A.10.105 and 28A.10.110. [1970 ex.s. c 15 § 25; 1969 c 105 § 4. Formerly RCW 28.10.110.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

Chapter 28A.13 SPECIAL EDUCATION—DIVISION FOR HANDICAPPED CHILDREN

Sections

- 28A.13.005 Purpose.
- 28A.13.010 Division for handicapped children created—“Handicapped children” and “appropriate education” defined—Approval when child under jurisdiction of juvenile court.
- 28A.13.020 Division administrative officer—Appointment—Duties.
- 28A.13.030 Authority of districts—Participation of department of social and health services.
- 28A.13.040 Aid for children unable to attend school—Apportionment—Allocations from state excess funds.
- 28A.13.045 District authority to contract with approved agencies—Approval standards.
- 28A.13.050 Services to handicapped children of preschool age—Apportionment—Allocations from state excess cost funds.
- 28A.13.060 Appeal from superintendent's denial of educational program.
- 28A.13.070 Superintendent of public instruction's duty and authority.
- 28A.13.080 Sanctions applied to noncomplying districts.
- 28A.13.090 Transportation of handicapped children.
- 28A.13.100 App-opriations for handicapped programs.

Learning/language disabilities, screening for: RCW 28A.03.300–28A.03.320.

Lease of buses to transport handicapped children: RCW 28A.24.110 through 28A.24.112.

Visual and auditory screening of pupils: RCW 28A.31.030–28A.31.050.

28A.13.005 Purpose. It is the purpose of this chapter, RCW 28A.24.100 and 28A.41.053 to ensure that all handicapped children as defined in RCW 28A.13.010 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state. [1971 ex.s. c 66 § 1.]

Severability—1971 ex.s. c 66: “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 66 § 13.]

Effective date—1971 ex.s. c 66: “This 1971 amendatory act will take effect July 1, 1973.” [1971 ex.s. c 66 § 14.] The above annotations apply to this chapter and RCW 28A.24.100 and 28A.41.053.

28A.13.010 Division for handicapped children created—“Handicapped children” and “appropriate education” defined—Approval when child under jurisdiction of juvenile court. There is established in the office of the superintendent of public instruction a division of special education for handicapped children, to be known as the division for handicapped children.

Handicapped children are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental handicap, or by reason of emotional maladjustment, or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all handicapped children of common school age. The superintendent of public instruction, by rule and regulation, shall establish for the purpose of excess cost funding, as provided in this chapter, RCW 28A.24.100 and 28A.41.053, functional definitions of the various types of handicapping conditions and eligibility criteria for handicapping conditions and eligibility criteria for handicapped programs. For the purposes of this chapter, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the handicapped children.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW 28A.13.050.

No child shall be removed from the jurisdiction of juvenile court for training or education under this chapter without the approval of the superior court of the county. [1971 ex.s. c 66 § 2; 1969 ex.s. c 2 § 2; 1969 ex.s. c 223 § 28A.13.010. Prior: 1951 c 92 § 1; prior: (i) 1943 c 120 § 1; Rem. Supp. 1943 § 4679–25. (ii) 1943 c 120 § 2, part; Rem. Supp. 1943 § 4679–26, part. Formerly RCW 28.13.010.]

Severability—**Effective date**—1971 ex.s. c 66: See notes following RCW 28A.13.005.

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.

28A.13.030 Authority of districts—Participation of department of social and health services. The board of directors of each school district, for the purpose of compliance with the provisions of this chapter, RCW 28A.24.100 and 28A.41.053, shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity and give other appropriate aid and special attention to handicapped children in regular or special school facilities within the district or shall contract for such services with other agencies as provided in RCW 28A.13.045 or shall participate in an interdistrict arrangement in accordance with RCW 28A.58.075 and 28A.58.240 and/or 28A.58.245 and 28A.58.250.

In carrying out their responsibilities under this chapter, school districts severally or jointly with the approval of the superintendent of public instruction are authorized to establish, operate, support and/or contract for residential schools and/or homes approved by the department of social and health services for aid and special attention to handicapped children.

The cost of board and room in facilities approved by the department of social and health services shall be provided by the department of social and health services for those handicapped students eligible for such aid under programs of the department. The cost of approved board and room shall be provided for those handicapped students not eligible under programs of the department of social and health services but deemed in need of the same by the superintendent of public instruction: *Provided*, That no school district shall be financially responsible for special aid programs for students who are attending residential schools operated by the department of social and health services: *Provided further*, That the provisions of this chapter, RCW 28A.24.100 and 28A.41.053 shall not preclude the extension by the superintendent of public instruction of special education opportunities to handicapped children in residential schools operated by the department of social and health services. [1971 ex.s. c 66 § 4; 1969 ex.s. c 223 § 28A.13.030. Prior: 1959 c 122 § 1; 1953 c 135 § 1; 1943 c 120 § 4; Rem. Supp. 1943 § 4679-28. Formerly RCW 28.13.030.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.13.040 Aid for children unable to attend school—Apportionment—Allocations from state excess funds. Any child who is not able to attend school and who is eligible for special excess cost aid programs authorized under this chapter shall be given such aid at home or at such other place as determined by the board of directors of the school district in which such child resides. Any school district within which such a child resides shall thereupon be granted regular apportionment of state and county school funds and, in addition, allocations from state excess funds made available for such special services for such period of time as such special aid program is given: *Provided*, That should such child or any other handicapped child attend and participate in a special aid program operated by another school district in accordance with the provisions of RCW 28A.58.230, 28A.58.240, and/or 28A.58.245, such regular apportionment shall be granted to the receiving school district, and such receiving school district shall be reimbursed by the district in which such student resides in accordance with rules and regulations promulgated by the superintendent of public instruction for the entire approved excess cost not reimbursed from such regular apportionment. [1971 ex.s. c 66 § 5; 1969 ex.s. c 223 § 28A.13.040. Prior: 1943 c 120 § 5; Rem. Supp. 1943 § 4679-29. Formerly RCW 28.13.040.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.13.045 District authority to contract with approved agencies—Approval standards. For the purpose of carrying out the provisions of RCW 28A.13.010 through 28A.13.040, the board of directors of every school district shall be authorized to contract with agencies approved by the state board of education for operating handicapped programs. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools. [1971 ex.s. c 66 § 6.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.13.050 Services to handicapped children of preschool age—Apportionment—Allocations from state excess cost funds. Special educational and training programs provided by the state and the school districts thereof for handicapped children may be extended to include children of preschool age. School districts which extend such special programs to children of preschool age shall be entitled to the regular apportionments from state and county school funds, as provided by law, and in addition to allocations from state excess cost funds made available for such special services for those handicapped children who are given such special services. [1971 ex.s. c 66 § 7; 1969 ex.s. c 223 § 28A.13.050. Prior: 1951 c 92 § 2; 1949 c 186 § 1; Rem. Supp. 1949 § 4901-3. Formerly RCW 28.13.050.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.13.060 Appeal from superintendent's denial of educational program. Where a handicapped child as

defined in RCW 28A.13.010 has been denied the opportunity of an educational program by a local school district superintendent under the provisions of RCW 28A.27.010, or for any other reason there shall be an affirmative showing by the school district superintendent in a writing directed to the parents or guardian of such a child within ten days of such decision that

(1) No agency or other school district with whom the district may contract under RCW 28A.13.030 can accommodate such child, and

(2) Such child will not benefit from an alternative educational opportunity as permitted under RCW 28A.13.040.

There shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by him and in accordance with RCW 28A.13.070. [1971 ex.s. c 66 § 8.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.13.070 Superintendent of public instruction's duty and authority. The superintendent of public instruction shall have the duty and authority, through the division of special education, to:

(1) Assist school districts in the formation of total school programs to meet the needs of handicapped children.

(2) Develop interdistrict cooperation programs for handicapped children as authorized in RCW 28A.58.245.

(3) Provide, upon request, to parents or guardians of handicapped children, information as to the handicapped programs offered within the state.

(4) Assist, upon request, the parent or guardian of any handicapped child in the placement of any handicapped child who is eligible for but not receiving special educational aid for handicapped children.

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to handicapped children.

(6) Adjudge, upon appeal by a parent or guardian of a handicapped child who is not receiving an educational program, whether the decision of a local school district superintendent under RCW 28A.13.060 to exclude such handicapped child was justified by the available facts and consistent with the provisions of this chapter, RCW 28A.24.100 and 28A.41.053. If the superintendent of public instruction shall decide otherwise he shall apply sanctions as provided in RCW 28A.13.080 until such time as the school district assures compliance with the provisions of this chapter, RCW 28A.24.100 and 28A.41.053.

(7) Promulgate such rules and regulations as are necessary to implement the several provisions of this chapter, RCW 28A.24.100 and 28A.41.053 and to ensure educational opportunities within the common school system for all handicapped children who are not institutionalized. [1971 ex.s. c 66 § 9.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.13.080 Sanctions applied to noncomplying districts. The superintendent of public instruction is hereby authorized and directed to establish appropriate sanctions to be applied to any school district of the state failing to comply with the provisions of this chapter, RCW 28A.24.100 and 28A.41.053 to be applied beginning upon the effective date thereof, which sanctions shall include withholding of any portion of state aid to such district until such time as compliance is assured. [1971 ex.s. c 66 § 12.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.13.090 Transportation of handicapped children. See RCW 28A.24.100.

28A.13.100 Appropriations for handicapped programs. See RCW 28A.41.053.

Chapter 28A.14 SPECIAL EDUCATION—DIVISION OF RECREATION

Sections

- 28A.14.010 Division of recreation—Established.
- 28A.14.020 Division of recreation—Administrative officer—Appointment—Qualifications—Salary—Duties.
- 28A.14.030 Recreation program—Cooperation of, authority of, school districts.
- 28A.14.040 Recreation program—May include adults—Restrictions.
- 28A.14.050 Local and district advisory committees—Duties.
- 28A.14.060 State aid.

28A.14.010 Division of recreation—Established. There is hereby established in the office of the superintendent of public instruction a division of special educational service to be known as the division of recreation. [1969 ex.s. c 223 § 28A.14.010. Prior: 1945 c 247 § 3; Rem. Supp. 1945 § 5109-10. Formerly RCW 28.14.010.]

28A.14.020 Division of recreation—Administrative officer—Appointment—Qualifications—Salary—Duties. The superintendent of public instruction shall appoint an administrative officer who shall be qualified for such position by training and experience. The administrative officer, among other duties, shall coordinate and supervise the programs of recreation operated by the school districts of the state. He shall cooperate with intermediate school district superintendents and with school district officials and teachers and encourage the establishment of local recreation programs. He shall also meet with and consult with recreation committees as provided in RCW 28A.14.050. [1971 c 48 § 4; 1969 ex.s. c 223 § 28A.14.020. Prior: 1945 c 247 § 4; Rem. Supp. 1945 § 5109-11. Formerly RCW 28.14.020.]

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.14.030 Recreation program—Cooperation of, authority of, school districts. School district officials and teachers shall cooperate with the superintendent of public instruction and with the administrative officer, and

school districts may give such recreation services as their facilities will permit. School districts may purchase and own recreation equipment and facilities, with the approval of the administrative officer, and may pay for the same out of their general fund budgets. They may employ special recreation instructors, with the approval of the administrative officer, and may pay their salaries and compensation out of their general fund budgets. Such expenditures may be partially or wholly reimbursed from funds appropriated, if any, under federal or state law, or from funds available from other public or private agencies, under rules and regulations established by the superintendent of public instruction. [1969 ex.s. c 223 § 28A.14.030. Prior: 1945 c 247 § 5; Rem. Supp. 1945 § 5109-12. Formerly RCW 28.14.030.]

28A.14.040 Recreation program—May include adults—Restrictions. Any school district, with the approval of the administrative officer, may extend its recreation program to include adults residing within the district or community when the welfare of the district or community will be subserved thereby: *Provided*, That the cost of such extended recreation program to include adults in any school district shall not be paid from any school district funds other than receipts from allocations made by the superintendent of public instruction to such school district from state, federal or other public or private funds made available for that purpose. [1969 ex.s. c 223 § 28A.14.040. Prior: 1945 c 247 § 6; Rem. Supp. 1945 § 5109-13. Formerly RCW 28.14.040.]

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.

28A.14.060 State aid. Allocations from any state appropriations to carry out the purposes of this chapter may be made by the superintendent of public instruction to school districts for their relief and assistance in establishing and maintaining recreation programs as in this chapter provided. In addition to allocations for direct relief and assistance, special allocations from any such appropriation may be made by the superintendent of public instruction to school districts for the purpose of underwriting allocations made by or requested from federal, or other public or private funds pending receipt of such federal, or other public or private funds. [1969 ex.s.

c 223 § 28A.14.060. Prior: 1945 c 247 § 9; Rem. Supp. 1945 § 5109-16. Formerly RCW 28.14.060.]

Chapter 28A.16 SPECIAL EDUCATION—DIVISION FOR SUPERIOR STUDENTS

Sections

- 28A.16.010 Division created—Superior students defined.
28A.16.020 Program—Scope—Costs.
28A.16.030 Authority of school districts—Joint programs with institutions of higher learning.

28A.16.010 Division created—Superior students defined. There is established in the office of the state superintendent of public instruction a division of special education for students of superior capacity. Such students are those who consistently show remarkable performance in academic pursuits or demonstrate exceptional ability. [1969 ex.s. c 223 § 28A.16.010. Prior: 1961 c 116 § 2. Formerly RCW 28.16.010.]

28A.16.020 Program—Scope—Costs. The state superintendent of public instruction, within the scope of policies and regulations adopted by the state board of education, shall administer a program to improve the education of students of superior capacity; such program shall include conducting, coordinating and aiding in research (including pilot programs), disseminating information to local school districts, and allocating supplementary funds for excess costs when appropriated for this purpose by the legislature. [1969 ex.s. c 223 § 28A.16.020. Prior: 1961 c 116 § 3. Formerly RCW 28.16.020.]

28A.16.030 Authority of school districts—Joint programs with institutions of higher learning. Local school districts, either separately or jointly may:

- (1) Establish and operate special, seminar or augmented programs of education for superior students; and
- (2) Employ and pay special instructors; and
- (3) Establish and operate in conjunction with any institution of higher learning joint programs of education for superior students. [1969 ex.s. c 223 § 28A.16.030. Prior: 1961 c 116 § 4. Formerly RCW 28.16.030.]

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.21.0301 ESD board—Members—Elections, time of, call and notice, conduct.
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—Travel 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.21.210 County or intermediate district superintendent and board employees to terminate or transfer employment—Benefits retained.
- 28A.21.220 Local school district superintendents to advise board and superintendent.
- 28A.21.240 Actions against officers, employees or agents of school districts and educational service districts—Defenses, costs and fees.
- 28A.21.250 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless.
- 28A.21.300 State supported environmental study centers—District operation.

28A.21.900 Phrases to have meanings ascribed herein.

Budget review committee, ESD superintendent or representative of as member of: RCW 28A.65.415.

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.

Tax deferred annuities: RCW 28A.58.560.

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.21.0301 ESD board—Members—Elections, time of, call and notice, conduct. Election of board members shall be held at the time of the general school election. Such election shall be called and notice thereof given by the county auditor of each county in the manner provided by law for giving notice of the election of school district directors and such election shall be conducted by the official who conducts the general school election for first class school districts. [1974 ex.s. c 75 § 2.]

Severability—1974 ex.s. c 75: See note following RCW 28A.21.030.

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 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 existing 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-'76 2nd ex.s. c 34 § 68; 1975 1st ex.s. c 275 § 13; 1971 ex.s. c 282 § 8; 1969 ex.s. c 176 § 6. Formerly RCW 28.19.525.]

Effective date—**Severability**—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

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. 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—Travel 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 travel expenses in the amounts provided in RCW 43.03.050 and 43.03.060 as now existing 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-'76 2nd ex.s. c 34 § 69; 1975 1st ex.s. c 275 § 29; 1971 ex.s. c 282 § 19; 1969 ex.s. c 176 § 13. Formerly RCW 28.19.560.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

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.21.210 County or intermediate district superintendent and board employees to terminate or transfer employment—Benefits retained. As of July 1, 1969, employees of the various offices of county or intermediate district superintendent and county or intermediate

district board shall terminate their employment therein, or such employees, at their election, may transfer their employment to the new intermediate school district in which their respective county is located. If such employment is so transferred, each employee shall retain the same leave benefits and other benefits that he had in his previous position. If the intermediate school district has a different system of computing leave benefits and other benefits, then the employee shall be granted the same leave and other benefits as a person will receive who would have had similar occupational status and total years of service with the new intermediate school district. [1969 ex.s. c 176 § 22. Formerly RCW 28.19.600.]

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.21.240 Actions against officers, employees or agents of school districts and educational service districts—Defenses, costs and fees. See RCW 28A.58.620.

28A.21.250 Officers, employees or agents of school districts or educational service districts, insurance to protect and hold personally harmless. See RCW 28A.58.630.

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.24.055 Transporting of children to school or school activities—Transporting of elderly—Insurance.
- 28A.24.060 Children of compulsory school age entitled to use facilities.
- 28A.24.075 Reimbursement for transportation costs—Method.
- 28A.24.076 Reimbursement for transportation costs—Superintendent may make rules and regulations.
- 28A.24.080 Transportation routes—Procedure to establish—School district transportation commission, composition.
- 28A.24.090 Local boards to cooperate in establishing routes and determining costs.
- 28A.24.100 Authorizing individual transportation or other arrangements—Pupils must provide own transportation, when.
- 28A.24.110 Lease of buses to transport handicapped children and elderly—Limitation.
- 28A.24.111 Lease of buses to transport handicapped children and elderly—Directors to authorize.
- 28A.24.112 Lease of buses to transport handicapped children and elderly—Lease at local level—Criteria.
- 28A.24.120 Lease of buses to transport handicapped children and elderly—Elderly persons defined—Program limitation.
- 28A.24.150 Safe walk-ways in lieu of bus route or bus run—Reimbursement of costs, when.
- 28A.24.170 School buses, rental or lease for emergency purposes—Authorization.
- 28A.24.172 School buses, rental or lease for emergency purposes—Board to determine district policy—Conditions if rent or lease.
- 28A.24.180 Agreements with other governmental entities for transportation of public or other noncommon school purposes—Limitations.
- 28A.24.200 School bus drivers, training and qualifications, rules and regulations for.

Age limit for bus drivers: RCW 46.20.045.

Beneficial interests in contracts prohibited—Second and third class school districts—Exception: RCW 28A.60.355.

Cooperative school transportation program for 1973-75 biennium (uncodified): See 1974 1st ex.s. c 91 § 1.

Special examination and license to drive school bus: RCW 46.20.440.

28A.24.055 Transporting of children to school or school activities—Transporting of elderly—Insurance. Every board of directors shall provide and pay for transportation of children to and from school whether

such children live within or without the district when in its judgment the best interests of the district will be subserved thereby, but the board is not compelled to transport any pupil living within two miles of the schoolhouse.

When children are transported from one school district to another the board of directors of the respective districts may enter into a written contract providing for a division of the cost of such transportation between the districts.

When commercial charter bus service is not reasonably available to a school district, the state board of education may authorize the use of school buses and drivers hired by the district for the transportation of school children and the school employees necessary for their supervision to and from any school activities within or without the school district during or after school hours and whether or not a required school activity, so long as the school board has officially designated it as a school activity. For any extra-curricular uses, the school board shall charge an amount sufficient to reimburse the district for its cost.

In addition to the right to contract for the use of buses provided in RCW 28A.24.170 and 28A.24.172, any school district may contract to furnish the use of school buses of that district to other users who are engaged in conducting an educational or recreational program supported wholly or in part by tax funds or programs for elderly persons at times when those buses are not needed by that district and under such terms as will fully reimburse such school district for all costs related or incident thereto: *Provided, however,* That no such use of school district buses shall be permitted except where other public or private transportation certificated or licensed by the Washington utilities and transportation commission is not reasonably available to the user: *Provided further,* That no user shall be required to accept any charter bus for services which the user believes might place the health or safety of the children or elderly persons in jeopardy.

Whenever any school children or elderly persons are transported by the school district in its own motor vehicles and by its own employees, the board may provide insurance to protect the district against loss, whether by reason of theft, fire or property damage to the motor vehicle or by reason of liability of the district to persons from the operation of such motor vehicle.

The board may provide insurance by contract purchase for payment of hospital and medical expenses in an amount not exceeding one thousand dollars per person per injury for the benefit of persons injured while they are on, getting on, or getting off any vehicles enumerated herein without respect to any fault or liability on the part of the school district or operator. This insurance may be provided without cost to the persons notwithstanding the provisions of RCW 28A.58.420.

If the transportation of children or elderly persons is arranged for by contract of the district with some person, the board may require such contractor to procure such insurance as the board deems advisable. [1973 c 45 § 1; 1971 c 24 § 3; 1969 ex.s. c 153 § 3; 1969 ex.s. c 223 § 28A.24.055. Prior: (i) 1969 c 53 § 1; 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; 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; Rem. Supp. 1943 § 4776, part. Formerly RCW 28.58-.100, part. (ii) 1965 ex.s. c 86 § 1. Formerly RCW 28.58.421.]

Elderly person defined—Program limitation: RCW 28A.24.120.

28A.24.060 Children of compulsory school age entitled to use facilities. Except as otherwise provided in RCW 28A.24.100, all children attending public schools in accordance with the laws relating to compulsory attendance in the state of Washington shall be entitled to use the transportation facilities provided by the school district in which they reside. [1969 ex.s. c 223 § 28A-.24.060. Prior: 1945 c 141 § 13; Rem. Supp. 1945 § 4719-1. Formerly RCW 28.24.060.]

28A.24.075 Reimbursement for transportation costs—Method. See RCW 28A.41.160.

28A.24.076 Reimbursement for transportation costs—Superintendent may make rules and regulations. See RCW 28A.41.170.

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.24.090 Local boards to cooperate in establishing routes and determining costs. Local boards of school directors shall cooperate with the transportation commission and the state superintendent in establishing routes and in determining the costs of such routes. [1969 ex.s. c 223 § 28A.24.090. Prior: 1965 ex.s. c 154 § 8. Formerly RCW 28.24.090.]

28A.24.100 Authorizing individual transportation or other arrangements—Pupils must provide own transportation, when. Individual transportation or other arrangements may be authorized when these seem best in the judgment of the commission. No district shall be required to transport any pupil living within two miles of the school which such pupil attends: *Provided*, That all handicapped children as defined in RCW 28A.13.010 who are not ambulatory and/or who are not capable of protecting their own welfare while traveling to and/or from the school or agency where special educational aid services are provided shall be provided with transportation at school district or districts expense. Except as otherwise provided in this section, the commission may require pupils residing within two miles of an established route to travel to the route at their own expense. [1971 ex.s. c 66 § 10; 1969 ex.s. c 223 § 28A.24.100. Prior: 1965 ex.s. c 154 § 9. Formerly RCW 28.24.100.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.24.110 Lease of buses to transport handicapped children and elderly—Limitation. The directors of school districts are authorized to lease school buses to nonprofit organizations to transport handicapped children and elderly persons to and from the site of activities or programs deemed beneficial to such persons by such organizations: *Provided*, That commercial bus transportation is not reasonably available for such purposes. [1973 c 45 § 2; 1971 c 78 § 1.]

Elderly person defined—Program limitation: RCW 28A.24.120.

28A.24.111 Lease of buses to transport handicapped children and elderly—Directors to authorize. The directors of school districts may authorize leases under RCW 28A.24.110 through 28A.24.112: *Provided*, That such leases do not conflict with regular school purposes. [1971 c 78 § 2.]

28A.24.112 Lease of buses to transport handicapped children and elderly—Lease at local level—Criteria. The lease of the equipment shall be handled by the school directors at a local level. The school directors may establish criteria for bus use and lease, including, but not limited to, minimum costs, and driver requirements. [1971 c 78 § 3.]

28A.24.120 Lease of buses to transport handicapped children and elderly—Elderly persons defined—Program limitation. For purposes of RCW 28A.24.055, 28A.24.110 and this section, "elderly person" shall mean a person who is at least sixty years of age. No school district funds may be used for the operation of such a program. [1973 c 45 § 3.]

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.

28A.24.170 School buses, rental or lease for emergency purposes—Authorization. It is the intent of the legislature and the purpose of RCW 28A.24.055, 28A.24.170 and 28A.24.172 that in the event of major forest fires, floods, or other natural emergencies that boards of directors of school districts, in their discretion, may rent or lease school buses to governmental agencies for the purposes of transporting personnel, supplies and/or evacuees. [1971 c 24 § 1.]

28A.24.172 School buses, rental or lease for emergency purposes—Board to determine district policy—Conditions if rent or lease. Each school district board shall determine its own policy as to whether or not its school buses will be rented or leased for the purposes of RCW 28A.24.170, and if the board decision is to rent or lease, under what conditions, subject to the following:

(1) Such renting or leasing may take place only after the state director of emergency services or any of his agents so authorized has, at the request of an involved governmental agency, declared that an emergency exists in a designated area insofar as the need for additional transport is concerned.

(2) The agency renting or leasing the school buses must agree, in writing, to reimburse the school district for all costs and expenses related to their use and also must provide an indemnity agreement protecting the district against any type of claim or legal action whatsoever, including all legal costs incident thereto. [1974 ex.s. c 171 § 1; 1971 c 24 § 2.]

28A.24.180 Agreements with other governmental entities for transportation of public or other noncommon school purposes—Limitations. Any school district board of directors or any intermediate school district board may enter into agreements pursuant to chapter 39.34 RCW or chapter 35.58 RCW, as now or hereafter amended, with any city, town, county, metropolitan municipal corporation, and any federal or other state

governmental entity, or any combination of the foregoing, for the purpose of providing for the transportation of students and/or members of the public through the use, in whole or part, of the school district's buses, transportation equipment and facilities, and employees: *Provided*, That any agreement entered into for purposes of transportation pursuant to this section shall conform with the provisions of RCW 35.58.250 where applicable and shall provide for the reimbursement and payment to the school district of not less than the district's actual costs and the reasonable value of the use of the district's buses, and transportation equipment and supplies which are incurred and otherwise provided in connection with the transportation of members of the public or other noncommon school purposes: *Provided further*, That wherever public transportation, or private transportation certified or licensed by the Washington utilities and transportation commission is not reasonably available, the school district or intermediate school district may transport members of the public so long as they are reimbursed for the cost of such transportation, and such transportation has been approved by any metropolitan municipal corporation performing public transportation pursuant to chapter 35.58 RCW in the area to be served by the district. [1974 ex.s. c 93 § 1.]

28A.24.200 School bus drivers, training and qualifications, rules and regulations for. See RCW 28A.04.131.

Chapter 28A.27 COMPULSORY SCHOOL ATTENDANCE

Sections

- 28A.27.010 Attendance mandatory—Age—When excused.
- 28A.27.030 School district superintendent to provide teacher with census—Report of truants, incorrigibles.
- 28A.27.040 Attendance enforcement officers—Authority—Record and report.
- 28A.27.070 Acquiring custody and disposition of truants.
- 28A.27.080 Annual notice of chapter provisions by ESD superintendent—Superintendent's report—Penalty for false or failure to report.
- 28A.27.090 Employment permits.
- 28A.27.100 Penalties in general—Complaints to court.
- 28A.27.102 Penalty for nonperformance of duty—Disposition of fines.
- 28A.27.104 Fines applied to support of schools.
- 28A.27.110 Prosecuting attorney to act for complainant.
- 28A.27.120 Courts have concurrent jurisdiction.
- 28A.27.130 Enforcing officers not personally liable for costs.
- 28A.27.290 Private schools must report attendance.
- 28A.27.300 Enforcement by educational service district superintendent.

Rules and regulations accepting national guard high school career training: RCW 28A.04.133.

28A.27.010 Attendance mandatory—Age—When excused. All parents, guardians and the persons in this state having custody of any child eight years of age and under fifteen years of age shall cause such child to attend the public school of the district in which the child resides for the full time when such school may be in session or to attend a private school for the same time unless the school district superintendent of the district in which the child resides shall have excused such child

from attendance because the child is physically or mentally unable to attend school or unless such child is attending a residential school operated by the division of institutions of the department of social and health services.

All parents, guardians and other persons in this state having custody of any child fifteen years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides for the full time when such school may be in session or to attend a private school for the same time excepting when the school district superintendent determines that such child is physically or mentally unable to attend school or has already attained a reasonable proficiency in the branches required by law to be taught in the first nine grades of the public schools of this state, or the child is regularly and lawfully engaged in a useful or remunerative occupation, or the child is attending a residential school operated by the division of institutions of the department of social and health services, or the child has already met graduation requirements in accordance with state board of education rules and regulations, or the child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW 28A.04.135.

Proof of absence from any public or approved private and/or parochial school shall be prima facie evidence of a violation of this section. An approved private and/or parochial school for the purposes of this section shall be one approved under regulations established by the state board of education pursuant to RCW 28A.04.120 as now or hereafter amended. [1973 c 51 § 1; 1972 ex.s. c 10 § 2. Prior: 1971 ex.s. c 215 § 2; 1971 ex.s. c 51 § 1; 1969 ex.s. c 109 § 2; 1969 ex.s. c 223 § 28A.27.010; prior: 1909 p 364 § 1; RRS § 5072; prior: 1907 c 240 § 7; 1907 c 231 § 1; 1905 c 162 § 1; 1903 c 48 § 1; 1901 c 177 § 11; 1899 c 140 § 1; 1897 c 118 § 71. Formerly RCW 28.27.010.]

Severability—1973 c 51: "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 51 § 5.] This applies to RCW 28A.27.010, 28A.04.135, 49.12.123 and the repeal of chapters 28A.06 and 28A.28 RCW.

Private and/or parochial schools now private schools: See RCW 28A.04.120(4), 28A.02.201 and 28A.02.220–28A.02.250.

Work permits for minors required: RCW 49.12.123.

28A.27.030 School district superintendent to provide teacher with census—Report of truants, incorrigibles. It shall be the duty of the school district superintendent, at the beginning of each school year, to provide each teacher with a copy of that portion of the last census of school children taken in his school district which would be pertinent to the grade or grades such teacher is instructing and it shall be the duty of every teacher to report to the proper attendance officer, all cases of truancy or incorrigibility in his school, immediately after the offense or offenses shall have been committed: *Provided*, That if there be a principal the report by the teacher shall be made to him and by him transmitted to the attendance officer: *Provided further*, That if there be a city superintendent, the principal shall transmit such

report to said city superintendent, who shall transmit such report to the proper attendance officer of his district. [1969 ex.s. c 223 § 28A.27.030. Prior: 1909 c 97 p 367 § 6; RRS § 5077; prior: 1907 c 231 § 6; 1905 c 162 § 6; 1903 c 48 §§ 2, 3, 4. Formerly RCW 28.27.030.]

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.

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28A.27.070 Acquiring custody and disposition of truants. Any attendance officer, sheriff, deputy sheriff, marshal, policeman, or any other officer authorized to make arrests, shall take into custody without a warrant a child who is required under the provisions of RCW 28A.27.010 through 28A.27.130 to attend school, such child then being a truant from instruction at the school which he is lawfully required to attend, and shall forthwith deliver a child so detained either to the custody of a person in parental relation to the child or to the teacher from whom the child is then a truant, or, if after consulting the teacher or other school officials it appears such child be an habitual or incorrigible truant, shall deliver such child into the hands of a juvenile probation officer as provided for in chapter 13.04 RCW for such further action thereon as such officer shall determine under chapter 13.04 RCW. An habitual or incorrigible truant for the purposes of this section is one who absents himself with frequency from the school he is required to attend, or is guilty of wilful and continued disobedience to the school rules and regulations or laws, or whose conduct is pernicious and injurious to the school. [1969 ex.s. c 223 § 28A.27.070. Prior: 1909 c 97 p 366 § 5; RRS § 5076; prior: 1907 c 231 § 5; 1905 c 162 § 5. Formerly RCW 28.27.070.]

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.27.090 Employment permits. Except as otherwise provided in this code, no child under the age of fifteen years shall be employed for any purpose by any person, company or corporation, in this state during the hours which the public schools of the district in which such child resides are in session, unless the said child shall present a certificate from a school superintendent as provided for in RCW 28A.27.010, excusing the said child from attendance in the public schools and setting forth the reason for such excuse, the residence and age of the child, and the time for which such excuse is given. Every owner, superintendent, or overseer of any establishment, company or corporation shall keep such certificate on file so long as such child is employed by him. The form of said certificate shall be furnished by the superintendent of public instruction. Proof that any child under fifteen years of age is employed during any part of the period in which public schools of the district are in session, shall be deemed prima facie evidence of a violation of this section. [1969 ex.s. c 223 § 28A.27.090. Prior: 1909 c 97 p 365 § 2; RRS § 5073; prior: 1907 c 231 § 2; 1905 c 162 § 2; 1903 c 48 § 2. Formerly RCW 28.27.090.]

28A.27.100 Penalties in general—Complaints to court. Any person violating any of the provisions of either RCW 28A.27.010 or 28A.27.090 shall be fined not more than twenty-five dollars. Attendance officers shall make complaint for violation of the provisions of RCW 28A.27.010 through 28A.27.130 by any person eighteen years of age or over to a justice of the peace, justice court judge or to a judge of the superior court. [1969 ex.s. c 223 § 28A.27.100. Prior: 1909 c 97 p 365 § 3; RRS § 5074; prior: 1907 c 231 § 3; 1905 c 162 § 3. Formerly RCW 28.27.100.]

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.

28A.27.104 Fines applied to support of schools. Notwithstanding the provisions of RCW 10.82.070, all fines except as otherwise provided in RCW 28A.27.010 through 28A.27.130 shall inure and be applied to the support of the public schools in the school district where such offense was committed: *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. [1969 ex.s. c 199 § 54; 1969 ex.s. c 223 § 28A.27.104. Prior: 1909 c 97 p 368 § 11; RRS § 5082; prior: 1907 c 231 § 12; 1905 c 162 § 11. Formerly RCW 28.27.104, 28.27.100, part.]

28A.27.110 Prosecuting attorney to act for complainant. The county prosecuting attorney shall act as attorney for the complainant in all court proceedings relating to the compulsory attendance of children as required by RCW 28A.27.010 through 28A.27.130. [1969 ex.s. c 223 § 28A.27.110. Prior: 1909 c 97 p 367 § 8; RRS § 5079; prior: 1901 c 177 § 19; 1899 c 142 § 25; 1897 c 118 § 177; 1890 p 382 § 83. Formerly RCW 28.27.110.]

28A.27.120 Courts have concurrent jurisdiction. In cases arising under RCW 28A.27.010 through 28A.27.130 all justices' courts, justice courts, municipal courts or departments and superior courts in the state of Washington shall have concurrent jurisdiction. [1969 ex.s. c 223 § 28A.27.120. Prior: 1909 c 97 p 367 § 7; RRS § 5078; prior: 1907 c 231 § 7; 1905 c 162 § 7. Formerly RCW 28.27.120.]

28A.27.130 Enforcing officers not personally liable for costs. No officer performing any duty under any of the provisions of RCW 28A.27.010 through 28A.27.130, or under the provisions of any rules that may be passed in pursuance hereof, shall in any wise become liable for any costs that may accrue in the performance of any duty prescribed by RCW 28A.27.010 through 28A.27.130. [1969 ex.s. c 223 § 28A.27.130. Prior: 1909 c 97 p 368 § 12; RRS § 5083; prior: 1907 c 231 § 13; 1905 c 162 § 12. Formerly RCW 28.27.130.]

28A.27.290 Private schools must report attendance. See RCW 28A.48.055.

28A.27.300 Enforcement by educational service district superintendent. See RCW 28A.21.113(2).

Chapter 28A.30 SURPLUS OR DONATED FOOD COMMODITIES FOR SCHOOL HOT LUNCH PROGRAM

Sections

28A.30.010 Acquisition authorized.

28A.30.020 Contracts for—Other law applicable to.

- 28A.30.030 Advancement of costs from revolving fund moneys—Reimbursement by school district to include transaction expense.
- 28A.30.040 Revolving fund—Created—Appropriation for, transfer of funds to, when.
- 28A.30.050 Revolving fund—Administration of fund—Use—School district requisition as prerequisite.
- 28A.30.060 Revolving fund—Depositories for fund, bond or security for—Manner of payments from fund.
- 28A.30.070 Rules and regulations.
- 28A.30.080 Suspension of laws, rules, inconsistent herewith.

28A.30.010 Acquisition authorized. Notwithstanding any other provision of law or chapter 39.32 RCW, the state superintendent of public instruction is hereby authorized to purchase, or otherwise acquire from the government of the United States or any property or commodity disposal agency thereof, surplus or donated food commodities for the use by any school district for their hot lunch program. [1969 ex.s. c 223 § 28A.30.010. Prior: 1967 ex.s. c 92 § 1. Formerly RCW 28.30.010.]

28A.30.020 Contracts for—Other law applicable to. The state superintendent of public instruction is hereby authorized to enter into any contract with the United States of America, or any agency thereof, for the purchase of any surplus or donated food commodities, without regard to the provisions of any other law requiring the advertising, giving notice, inviting or receiving bids, or which may require the delivery of purchases before payment. [1969 ex.s. c 223 § 28A.30.020. Prior: 1967 ex.s. c 92 § 7. Formerly RCW 28.30.020.]

28A.30.030 Advancement of costs from revolving fund moneys—Reimbursement by school district to include transaction expense. In purchasing or otherwise acquiring surplus or donated commodities on the requisition of a school district the superintendent may advance the purchase price and other cost of acquisition thereof from the surplus and donated food commodities revolving fund and he shall in due course bill the proper school district for the amount paid by him for the commodities plus a reasonable amount to cover the expenses incurred by his office in connection with the transaction. All payments received for surplus or donated commodities from school districts shall be deposited by the superintendent in the surplus and donated food commodities revolving fund. [1969 ex.s. c 223 § 28A.30.030. Prior: 1967 ex.s. c 92 § 4. Formerly RCW 28.30.030.]

28A.30.040 Revolving fund—Created—Appropriation for, transfer of funds to, when. There is created in the office of the state superintendent of public instruction a revolving fund to be designated the surplus and donated food commodities revolving fund, and there is hereby appropriated to said revolving fund from the general fund for the fiscal biennium ending June 30, 1969, the sum of twenty-five thousand dollars or so much thereof as shall be necessary to carry out the purposes of this chapter. The state treasurer shall, with the approval of the governor, transfer so much of this appropriation to the revolving fund from time to time as the superintendent deems necessary to maintain said

fund in a condition adequate to carry out the purposes of this chapter. [1969 ex.s. c 223 § 28A.30.040. Prior: 1967 ex.s. c 92 § 2. Formerly RCW 28.30.040.]

28A.30.050 Revolving fund—Administration of fund—Use—School district requisition as prerequisite. The surplus and donated food commodities revolving fund shall be administered by the state superintendent of public instruction and be used solely for the purchase or other acquisition, including transportation, storage and other cost, of surplus or donable food commodities from the federal government. The superintendent may purchase or otherwise acquire such commodities only after requisition by a school district requesting such commodities. [1969 ex.s. c 223 § 28A.30.050. Prior: 1967 ex.s. c 92 § 3. Formerly RCW 28.30.050.]

28A.30.060 Revolving fund—Depositories for fund, bond or security for—Manner of payments from fund. The surplus and donated food commodities revolving fund shall be deposited by the superintendent in such banks as he may select, but any such depository shall furnish a surety bond executed by a surety company or companies authorized to do business in the state of Washington, or collateral eligible as security for deposit of state funds, in at least the full amount of the deposit in each depository bank. Moneys shall be paid from the surplus and donated food commodities revolving fund by voucher and check in such form and in such manner as shall be prescribed by the superintendent. [1969 ex.s. c 223 § 28A.30.060. Prior: 1967 ex.s. c 92 § 5. Formerly RCW 28.30.060.]

28A.30.070 Rules and regulations. The superintendent of public instruction shall have power to promulgate rules and regulations as may be necessary to effectuate the purposes of this chapter. [1969 ex.s. c 223 § 28A.30.070. Prior: 1967 ex.s. c 92 § 6. Formerly RCW 28.30.070.]

28A.30.080 Suspension of laws, rules, inconsistent herewith. Any provision of law, or any resolution, rule or regulation which is inconsistent with the provisions of this chapter is suspended to the extent such provision is inconsistent herewith. [1969 ex.s. c 223 § 28A.30.080. Prior: 1967 ex.s. c 92 § 8. Formerly RCW 28.30.080.]

Chapter 28A.31 HEALTH MEASURES

Sections

- 28A.31.010 Contagious diseases, limiting contact—Rules and regulations.
- 28A.31.020 Milk for children at school expense.
- 28A.31.030 Visual and auditory screening of pupils—Rules and regulations.
- 28A.31.040 Visual and auditory screening of pupils—Record of screening—Forwarding of records, recommendations and data.
- 28A.31.050 Visual and auditory screening of pupils—Rules and regulations, forms used in screenings, distribution.
- 28A.31.055 State otologist to aid children with hearing defects.
- 28A.31.060 Sight-saving equipment.
- 28A.31.070 First class school districts may appoint medical inspector.

28A.31.080 Second class districts may employ physician or nurse.

Learning/language disabilities, screening for: RCW 28A.03.300–28A.03.320.

State board of health: Chapter 43.20 RCW.

28A.31.010 Contagious diseases, limiting contact—Rules and regulations. The state board of health, after consultation with the superintendent of public instruction, shall adopt reasonable rules and regulations regarding the presence of persons on or about any school premises who have, or who have been exposed to, contagious diseases deemed by the state board of health as dangerous to the public health. Such rules and regulations shall specify reasonable and precautionary procedures as to such presence and/or readmission of such persons and may include the requirement for a certificate from a licensed physician that there is no danger of contagion. The superintendent of public instruction shall print and distribute the rules and regulations of the state board of health above provided to appropriate school officials and personnel. [1971 c 32 § 1; 1969 ex.s. c 223 § 28A.31.010. Prior: 1909 c 97 p 262 § 5; RRS § 4689; prior: 1897 c 118 § 68; 1890 p 372 § 47. Formerly RCW 28.31.010.]

28A.31.020 Milk for children at school expense. The board of directors of any school district may cause to be furnished free of charge, in a suitable receptacle on each and every school day to such children in attendance desiring or in need of the same, not less than one-half pint of milk. The cost of supplying such milk shall be paid for in the same manner as other items of expense incurred in the conduct and operation of said school, except that available federal or state funds may be used therefor. [1969 ex.s. c 223 § 28A.31.020. Prior: 1935 c 15 § 1; 1923 c 152 § 1; 1921 c 190 § 1; RRS § 4806. Formerly RCW 28.31.020.]

28A.31.030 Visual and auditory screening of pupils—Rules and regulations. Every board of school directors shall have the power, and it shall be its duty to provide for and require screening for the visual and auditory acuity of all children attending schools in their districts to ascertain which if any of such children have defects sufficient to retard them in their studies. Auditory and visual screening shall be made in accordance with procedures and standards adopted by rule or regulation of the state board of health. Prior to the adoption or revision of such rules or regulations the state board of health shall seek the recommendations of the superintendent of public instruction regarding the administration of visual and auditory screening and the qualifications of persons competent to administer such screening. [1971 c 32 § 2; 1969 ex.s. c 223 § 28A.31.030. Prior: 1941 c 202 § 1; Rem. Supp. 1941 § 4689–1. Formerly RCW 28.31.030.]

28A.31.040 Visual and auditory screening of pupils—Record of screening—Forwarding of records, recommendations and data. The person or persons completing the screening prescribed in RCW 28A.31.030 shall promptly prepare a record of the screening of each child found to have, or suspected of having,

reduced visual and/or auditory acuity in need of attention, including the special education services provided by chapter 28A.13 RCW, and send copies of such records and recommendations to the parents or guardians of such children and shall deliver the original records to the appropriate school official who shall preserve such records and forward to the superintendent of public instruction and the secretary of social and health services visual and auditory data as requested by such officials. [1971 c 32 § 3; 1969 ex.s. c 223 § 28A.31.040. Prior: 1941 c 202 § 2; Rem. Supp. 1941 § 4689–2. Formerly RCW 28.31.040.]

28A.31.050 Visual and auditory screening of pupils—Rules and regulations, forms used in screenings, distribution. The superintendent of public instruction shall print and distribute to appropriate school officials the rules and regulations adopted by the state board of health pursuant to RCW 28A.31.030 and the recommended records and forms to be used in making and reporting such screenings. [1973 c 46 § 1. Prior: 1971 c 48 § 12; 1971 c 32 § 4; 1969 ex.s. c 223 § 28A.31.050; prior: 1941 c 202 § 3; RRS § 4689–3. Formerly RCW 28.31.050.]

Severability—1973 c 46: "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 46 § 5.] This applies to RCW 28A.31.050 and the repeal of RCW 28A.88.070 (sections 2 and 3 of 1973 § 46 pertaining to the amendment of RCW 28A.41.130 was subsequently amended and superseded by 1973 ex.s. c 195 §§ 9, 137, 138 and 139).

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.31.055 State otologist to aid children with hearing defects. See chapter 70.50 RCW.

28A.31.060 Sight-saving equipment. In order to enable children in public schools who have defective vision to enjoy comparable educational opportunities with children of normal sight, the superintendent of public instruction shall provide for the benefit of such children sight-saving equipment as may be deemed necessary to accomplish such purpose. Any equipment so purchased shall be the property of the superintendent of public instruction and shall be loaned to public schools for the use of children with defective vision where the number of such children does not warrant the establishment of a sight-saving class or as otherwise required. Such sight-saving equipment shall be made available upon the recommendation of an eye physician that such equipment is necessary to enable a child to enjoy educational opportunities equal to those of children of normal sight. [1969 ex.s. c 223 § 28A.31.060. Prior: 1941 c 251 § 1; Rem. Supp. 1941 § 4689–4. Formerly RCW 28.31.060.]

28A.31.070 First class school districts may appoint medical inspector. See RCW 28A.59.180(12).

28A.31.080 Second class districts may employ physician or nurse. See RCW 28A.60.320.

**Chapter 28A.34
NURSERY SCHOOLS**

Sections

- 28A.34.010 Authority of school boards.
 28A.34.020 Allocations of state or federal funds—Regulations by state board.
 28A.34.040 Allocations pending receipt of federal funds.
 28A.34.045 Receipt of federal funds for school purposes.
 28A.34.050 Establishment and maintenance discretionary.

28A.34.010 Authority of school boards. The board of directors of any school district shall have the power to establish and maintain nursery schools and to provide before-and-after-school and vacation care in connection with the common schools of said district located at such points as the board shall deem most suitable for the convenience of the public, for the care and instruction of infants and children residing in said district. The board shall establish such courses, activities, rules, and regulations governing nursery schools and before-and-after-school care as it may deem best: *Provided*, That these courses and activities shall meet the minimum standard for such nursery schools as established by the United States Department of Health, Education and Welfare, or its successor agency, and the state board of education. Except as otherwise provided by state or federal law, the board of directors may fix a reasonable charge for the care and instruction of children attending such schools. The board may, if necessary, supplement such funds as are received for the superintendent of public instruction or any agency of the federal government, by an appropriation from the general school fund of the district. [1969 ex.s. c 223 § 28A.34.010. Prior: 1945 c 247 § 1; 1943 c 220 § 1; Rem. Supp. 1945 § 5109-1. Formerly RCW 28.34.010.]

28A.34.020 Allocations of state or federal funds—Regulations by state board. Expenditures under federal funds and/or state appropriations made to carry out the purposes of this chapter shall be made by warrants issued by the state treasurer upon order of the superintendent of public instruction. The state board of education shall make necessary rules and regulations to carry out the purpose of RCW 28A.34.010. [1969 ex.s. c 223 § 28A.34.020. Prior: 1943 c 220 § 2; Rem. Supp. 1943 § 5109-2. Formerly RCW 28.34.020, 28.34.030.]

28A.34.040 Allocations pending receipt of federal funds. In the event the legislature appropriates any moneys to carry out the purposes of this chapter, allocations therefrom may be made to school districts for the purpose of underwriting allocations made or requested from federal funds until such federal funds are available. Any school district may allocate a portion of its funds for the purpose of carrying out the provisions of this chapter pending the receipt of reimbursement from funds made available by acts of congress. [1969 ex.s. c 223 § 28A.34.040. Prior: 1943 c 220 § 3; Rem. Supp. 1943 § 5109-3. Formerly RCW 28.34.040.]

28A.34.045 Receipt of federal funds for school purposes. See RCW 28A.02.100.

28A.34.050 Establishment and maintenance discretionary. Every board of directors shall have power to establish, equip and maintain nursery schools and/or provide before-and-after-school care for children of working parents, in cooperation with the federal government or any of its agencies, when in their judgment the best interests of their district will be subserved thereby. [1973 1st ex.s. c 154 § 45; 1969 ex.s. c 223 § 28A.34.050. Prior: 1943 c 220 § 5; Rem. Supp. 1943 § 5109-5. Formerly RCW 28.34.050.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

**Chapter 28A.35
KINDERGARTENS**

Sections

- 28A.35.010 Free kindergartens authorized—Limitation as to third class districts—Duties of directors.
 28A.35.011 First class districts may establish and maintain.
 28A.35.020 Part of common school system.
 28A.35.030 Maintained from general fund—Attendance, reports, enumeration.
 28A.35.070 Qualifications for teachers.
 28A.35.080 Special meeting to determine if district should maintain.
Learning/language disabilities, screening for: RCW 28A.03.300-28A.03.320.

28A.35.010 Free kindergartens authorized—Limitation as to third class districts—Duties of directors. The board of directors of any school district shall have power to establish and maintain free kindergartens in connection with the common schools of said district for the instruction of children between the ages of four and six years, residing in said district, and shall establish such courses of training, study and discipline and such rules and regulations governing such kindergartens as said board may deem best. [1972 ex.s. c 105 § 1; 1969 ex.s. c 223 § 28A.35.010. Prior: 1965 ex.s. c 124 § 19; 1911 c 82 § 1, part; 1909 c 97 p 371 § 1; RRS 5096; prior: 1897 c 118 § 181, part. Formerly RCW 28.35.010.]

Effective date—1972 ex.s. c 105: "This act except for section 4 will take effect July 1, 1973." [1972 ex.s. c 105 § 5.] Sections 1-3, codified as RCW 28A.35.010, 28A.41.130 and 28A.58.180 are effective July 1, 1973. Section 4, codified as RCW 28A.41.170, is declared effective May 23, 1972 by said section 5 above.

Severability—1972 ex.s. c 105: "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 105 § 6.] This applies to RCW 28A.35.010, 28A.41.130, 28A.41.170 and 28A.58.180.

28A.35.011 First class districts may establish and maintain. See RCW 28A.59.180(6).

28A.35.020 Part of common school system. Kindergartens established under authority of this code shall be a part of the common school system and shall be open to all children of proper age resident in the district maintaining the same: *Provided*, That nothing in this section shall be construed to change any state law relating to the taking of the census of the school population or the apportionment of state and county funds. [1969 ex.s. c

223 § 28A.35.020. Prior: (i) 1909 c 97 p 371 § 2; RRS § 5097. Formerly RCW 28.35.020. (ii) 1917 c 127 § 1, part; RRS § 5098, part. Formerly RCW 28.35.030, part.]

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.

28A.35.070 Qualifications for teachers. Kindergarten teachers and supervisors shall have such teacher certificates or permits for their position as rules and regulations of the state board of education shall require. [1969 ex.s. c 223 § 28A.35.070. Prior: 1909 c 97 p 371 § 4; RRS § 5099; prior: 1897 c 118 § 181, part. Formerly RCW 28.35.070.]

28A.35.080 Special meeting to determine if district should maintain. See RCW 28A.58.370.

Chapter 28A.40

PERMANENT COMMON SCHOOL FUND— COMMON SCHOOL CONSTRUCTION FUND

Sections

- 28A.40.010 Permanent common school fund—Sources—Use.
- 28A.40.013 Permanent common school fund—Sources—Funds for support.
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- 28A.40.015 Permanent common school fund—Sources—Interest accruing on from July 2nd, 1967, deposited in common school construction fund.
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- 28A.40.019 Permanent common school fund—Sources—Enabling act and amendments thereto as affecting.
- 28A.40.020 Certain losses to permanent common school fund or other state educational funds as funded debt against state.

28A.40.021 Certain losses to permanent common school fund or other state educational funds as funded debt against state—Constitutional provision.

28A.40.100 Common school construction fund—Sources—Use.

28A.40.101 Common school construction fund—Sources—Funds for support.

28A.40.010 Permanent common school fund—Sources—Use. The principal of the common school fund as the same existed on June 30, 1965, shall remain permanent and irreducible. The said fund shall consist of the principal amount thereof existing on June 30, 1965, and such additions thereto as may be derived after June 30, 1965, from the following named sources, to wit: Appropriations and donations by the state to this fund; donations and bequests by individuals to the state or public for common schools; the proceeds of lands and other property which revert to the state by escheat and forfeiture; the proceeds of all property granted to the state, when the purpose of the grant is not specified, or is uncertain; funds accumulated in the treasury of the state for the disbursement of which provision has not been made by law; the proceeds of the sale of stone, minerals or property other than timber and other crops from school and state lands, other than those granted for specific purposes; all moneys received from persons appropriating stone, minerals or property other than timber and other crops from school and state lands other than those granted for specific purposes, and all moneys other than rental, recovered from persons trespassing on said lands; five percent of the proceeds of the sale of public lands lying within the state, which shall be sold by the United States subsequent to the admission of the state into the Union as approved by section 13 of the act of congress enabling the admission of the state into the Union; the principal of all funds arising from the sale of lands and other property which have been, and hereafter may be, granted to the state for the support of common schools and such other funds as may be provided by legislative enactment. [1969 ex.s. c 223 § 28A.40.010. Prior: 1967 c 29 § 1; 1909 c 97 p 320 § 1; RRS § 4932; prior: 1897 c 118 § 109; 1890 p 373 § 50; 1886 p 20 § 57, part; Code 1881 § 3210, part; 1873 p 421 § 1. Formerly RCW 28.40.010.]

Banks and trust companies, liquidation and winding up dividends unclaimed deposited in: RCW 30.44.150, 30.44.180. personal property, proceeds deposited in: RCW 30.44.220.

Credit union unclaimed funds on liquidation escheat to: RCW 31.12.410.

Enlargement of, legislature may provide: State Constitution Art. 9 § 3 (Amendment 43).

Escheated estates deposited in: RCW 11.08.210.

Game and game fish lands

payments to in lieu of property taxes: RCW 77.12.203 withdrawn from lease, payment of amount of lease into: RCW 77.12.360.

Interest in deposited in current state school fund: RCW 28A.41.020. used for current expenses: State Constitution Art. 9 § 3 (Amendment 43).

Investment in United States, state, county, city and town, and school district bonds, when authorized: RCW 43.84.011.

Investment of permanent common school fund: State Constitution Art. 16 § 5 (Amendment 44).

Lands set aside and permanent funds established: Enabling act § 10 through § 25.

Losses occasioned by default, fraud, etc., to become permanent debt against state: State Constitution Art. 9 § 5.

Permanent and irreducible: State Constitution Art. 9 § 3 (Amendment 43), RCW 28A.40.010.

Safe deposit box contents

rent unpaid, sale, proceeds deposited in: RCW 22.28.040.

unclaimed after liquidation and winding up of bank or trust company, proceeds from sale deposited in: RCW 30.44.220.

Savings and loan associations, not authorized investment of: RCW 33.52.010.

State land

acquired, lease and sale of, disposition of proceeds: RCW 79.01.612.

withdrawn for game purposes, payment of amount of lease into: RCW 77.12.360.

28A.40.013 Permanent common school fund—Sources—Funds for support. See state Constitution Art. 9 § 3 (Amendment 43).

28A.40.014 Permanent common school fund—Sources—Interest accruing on prior to July 2nd, 1967, deposited in current state school fund. See RCW 28A.41.020.

28A.40.015 Permanent common school fund—Sources—Interest accruing on from July 2nd, 1967, deposited in common school construction fund. See RCW 28A.40.100; also, state Constitution Art. 9 § 3 (Amendment 43).

28A.40.016 Permanent common school fund—Sources—Investment of permanent common school fund. See state Constitution Art. 16 § 5 (Amendment 44).

28A.40.017 Permanent common school fund—Sources—Revenue in applied exclusively to common schools. See state Constitution Art. 9 § 2.

28A.40.018 Permanent common school fund—Sources—Apportionment from by special act forbidden. See state Constitution Art. 2 § 28(7).

28A.40.019 Permanent common school fund—Sources—Enabling act and amendments thereto as affecting. See Enabling act, this code.

28A.40.020 Certain losses to permanent common school fund or other state educational funds as funded debt against state. All losses to the permanent common school or any other state educational fund, which shall be occasioned by defalcation, mismanagement or fraud of the agents or officers controlling or managing the same, shall be audited by the proper authorities of the state. The amount so audited shall be a permanent funded debt against the state in favor of the particular fund sustaining such loss, upon which not less than six percent annual interest shall be paid. [1969 ex.s. c 223 § 28A.40.020. Prior: 1909 c 97 p 321 § 2; RRS § 4933; prior: 1897 c 118 § 110, part; 1890 p 373 § 51, part. Formerly RCW 28.40.020.]

28A.40.021 Certain losses to permanent common school fund or other state educational funds as funded

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debt against state—Constitutional provision. See state Constitution Art. 9 § 5.

28A.40.100 Common school construction fund—Sources—Use. The common school construction fund is to be used exclusively for the purpose of financing the construction of facilities for the common schools. The sources of said fund shall be: (1) Those proceeds derived from sale or appropriation of timber and other crops from school and state land subsequent to June 30, 1965, other than those granted for specific purposes; (2) the interest accruing on the permanent common school fund from and after July 2, 1967, together with all rentals and other revenue derived therefrom and from land and other property devoted to the permanent common school fund from and after July 1, 1967; and (3) such other sources as the legislature may direct. That portion of the common school construction fund derived from interest on the permanent common school fund may be used to retire such bonds as may be authorized by law for the purpose of financing the construction of facilities for the common schools.

The interest accruing on the permanent common school fund together with all rentals and other revenues accruing thereto pursuant to subsection (2) of this section prior to July 1, 1967, shall be exclusively applied to the current use of the common schools. [1969 ex.s. c 223 § 28A.40.100. Prior: 1967 c 29 § 3. Formerly RCW 28.40.100.]

28A.40.101 Common school construction fund—Sources—Funds for support. See state Constitution Art. 9 § 3 (Amendment 43).

Bond issue for school construction, payment from common school construction fund: RCW 28A.47.786.

Chapter 28A.41 CURRENT STATE SCHOOL FUND—SCHOOL DISTRICT REIMBURSEMENT PROGRAMS

Sections

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Investment of funds, including funds received by ESD—Authority—Procedures: RCW 28A.58.430.

Vocational-technical schools, children of certain citizens missing in action or prisoners of war exempt from tuition—Limitations—Procedure: RCW 28A.09.200.

28A.41.020 Current state school fund—Sources—Required appropriations for school support. The interest accruing on the permanent common school fund together with all rentals and other revenues from lands and other property devoted to the current use of the common schools, other than those proceeds derived from the sale or appropriation of timber and other crops from school and state lands subsequent to June 30, 1965, other than those granted for specific purposes, and revenues from other sources allotted thereto, shall be deposited up to and including June 30, 1967, in a fund to be known as the current state school fund. On and after July 1, 1967, only revenue from sources other than (1) those proceeds derived from the sale or appropriation of timber and other crops from school and state lands, other than those granted for specific purposes; and (2) the interest accruing on said permanent common school fund together with all rentals and other revenues derived therefrom and from land and other property devoted to the permanent common school fund from and after July 1, 1967, shall be deposited in the current state school fund. Any revenue deposited in the current state school fund, whether prior to or after June 30, 1967, shall be exclusively applied to the current use of the common schools. In addition thereto, it shall be the duty of the state legislature, at each regular session thereof, to appropriate from the state general fund for the current use of the common schools an amount of money, which, with the interest and other revenues aforesaid, shall equal the amounts needed for state support to public schools. [1969 ex.s. c 223 § 28A.41.020. Prior: 1967 c 29 § 2; 1959 c 276 § 1; 1945 c 141 § 1; 1933 c 28 § 4; 1909 c 97 p 320 § 3; prior: 1897 c 118 § 110; 1890 p 373 § 51; 1886 p 20 § 57, part; Code 1881 § 3210, part; 1873 p 421 § 1; Rem. Supp. 1945 § 4940–1. Formerly RCW 28.41.020.]

Common school construction fund: State Constitution Art. 9 § 3 (Amendment 43), RCW 28A.40.100.

Permanent common school fund: State Constitution Art. 9 § 3 (Amendment 43), RCW 28A.40.010.

28A.41.030 Current state school fund—Certain federal proceeds applied to. All moneys received by the state from the United States, under the provisions of section 191, title 30, United States Code, Annotated,

and under section 810, chapter 12, title 16, Conservation, United States Code, Annotated, shall be applied by the state treasurer to the current school fund. [1969 ex.s. c 223 § 28A.41.030. Prior: 1935 c 19 § 1; RRS § 4934–2. Formerly RCW 28.41.030.]

28A.41.040 Current state school fund—Estimates for funds for. At such time as the governor shall determine under the provisions of chapter 43.88 RCW the superintendent of public instruction shall submit such detailed estimates and other information to the governor and in such form as the governor shall determine of the total estimated amount required for appropriation from the state general fund to the current school fund for state support to public schools during the ensuing biennium. [1969 ex.s. c 223 § 28A.41.040. Prior: 1945 c 141 § 11; Rem. Supp. 1945 § 4940–9. Formerly RCW 28.41.040.]

28A.41.050 Appropriations by legislature. The state legislature shall, at each regular session thereof, appropriate from the current state school fund for the current use of the common schools such amounts as needed for state support to the common schools during the ensuing biennium as in this chapter provided. [1969 ex.s. c 223 § 28A.41.050. Prior: 1945 c 141 § 2; Rem. Supp. 1945 § 4940–2. Formerly RCW 28.41.050.]

28A.41.053 Appropriations for handicapped programs. The superintendent of public instruction shall submit to each regular session of the legislature a programmed budget request for handicapped programs. Programs operated by local school districts shall be funded on an excess cost basis from appropriations provided by the legislature for handicapped programs and shall take account of state funds accruing through RCW 28A.41.130, 28A.41.140, and other state and local funds, excluding special excess levies. [1971 ex.s. c 66 § 11.]

Severability—Effective date—1971 ex.s. c 66: See notes following RCW 28A.13.005.

28A.41.055 Apportionment factors to be based on current figures—Rules and regulations. State and county funds which may become due and apportionable to school districts shall be apportioned in such a manner that any apportionment factors used shall utilize data and statistics derived in the school year that such funds are paid: *Provided*, That the superintendent of public instruction may make necessary administrative provision for the use of estimates, and corresponding adjustments to the extent necessary: *Provided further*, That as to those revenues used in determining the amount of state funds to be apportioned to school districts pursuant to RCW 28A.41.130, any apportionment factors shall utilize data and statistics derived in an annual period established pursuant to rules and regulations promulgated by the superintendent of public instruction in cooperation with the department of revenue. [1972 ex.s. c 26 § 3; 1969 ex.s. c 223 § 28A.41.055. Prior: 1955 c 350 § 1. Formerly RCW 28.41.055.]

Severability—1972 ex.s. c 26: "If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1972 ex.s. c 26 § 4.] This applies to RCW 28A.41.055, 28A.65.080 and 28A.65.170.

28A.41.130 Annual distribution of funds according to weighted enrollment—Pupil/teacher ratio standard. 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.41.140 Weighting schedule—Procedure to determine—Renewal—Submittal to legislature—Enrollment before weighting. To determine a "weighted student enrolled," as that term is used in this chapter a schedule shall be established by the superintendent of public instruction which shall provide appropriate recognition of the following costs among the various types of students and districts of the state, with the equalization of educational opportunity being the primary objective:

(1) Costs attributable to staff experience and professional preparation; and

(2) Costs to state and local funds attributable to the operation of approved educational programs arising as a result of a concentration of culturally disadvantaged students, or as a result of a high degree of transient enrollment;

(3) Costs resulting from the operation of small school plants within districts: *Provided*, That such plants are judged by the state board of education as remote and necessary;

(4) Costs differentials attributable to the operation of approved elementary and secondary programs;

(5) Costs which must be incurred to operate an approved vocational program;

(6) Costs resulting from the attendance of students who:

(a) Do not reside within the servicing school district: *Provided*, That nothing within this provision shall be construed as affecting the reimbursement procedures in RCW 28A.44.040;

(b) Reside in any home or institution devoted to providing a home for dependent or otherwise referred or entrusted children: *Provided*, Such home or institution is exempt from taxation under the laws of the state of Washington; or

(c) Constitute at least three percent of the student enrollment within the district and who reside within the servicing district on property of either the state, its political subdivisions, or any municipal corporation.

The weighting schedule when established shall be renewed biennially by the state superintendent and shall be subject to approval, rejection or amendment by the legislature. The schedule shall be submitted for approval

as a part of the state superintendent's biennial state budget. In the event the legislature rejects the weighting schedule presented, without adopting a new schedule, the schedule established for the previous biennium shall remain in effect. The enrollment of any district, before weighting, shall be the average number of full time students and part time students as provided in RCW 28A.41.145 enrolled on the first school day of each month. [1969 ex.s. c 244 § 14. Prior: 1969 ex.s. c 217 § 3; 1969 c 130 § 7; 1969 ex.s. c 223 § 28A.41.140; prior: 1965 ex.s. c 154 § 3. Formerly RCW 28.41.140.]

28A.41.145 Part time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations. (1) For purposes of this section, the following definitions shall apply:

(a) "private school student" shall mean any student enrolled full time in a private or private sectarian school;

(b) "school" shall mean any primary, secondary or vocational school;

(c) "school funding authority" shall mean any non-federal governmental authority which provides moneys to common schools;

(d) "part time student" shall mean and include any student enrolled in a course of instruction in a private or private sectarian school and taking courses at and/or receiving ancillary services offered by any public school not available in such private or private sectarian school district and any student involved in any work training program and taking courses in any public school, which work training program is approved by the school board of the district in which such school is located.

(2) The board of directors of any school district is authorized and, in the same manner as for other public school students, shall permit the enrollment of and provide ancillary services for part time students, including (a) the part time enrollment of students involved in any work training program and desirous of taking courses within the district upon the school board's approval of any such work training program and (b) the part time enrollment of any private school student in any school within the district for the purpose of attending a class or classes or a course of instruction if the class, classes, or course of instruction for which the private school student requests enrollment, are unavailable to the student in the private school in which the student is regularly enrolled: *Provided*, That this section shall only apply to part time students who would be otherwise eligible for full time enrollment in the school district.

(3) The superintendent of public instruction shall recognize the costs to each school district occasioned by enrollment of and/or ancillary services provided for part time students authorized by subsection (2) and shall include such costs in the "weighting schedule" established pursuant to RCW 28A.41.140. Each school district shall be reimbursed for the costs or a portion thereof, occasioned by attendance of and/or ancillary services provided for part time students on a part time basis, by the superintendent of public instruction, according to law.

(4) Each school funding authority shall recognize the costs occasioned to each school district by enrollment of and ancillary services provided for part time students authorized by subsection (2), and shall include said costs in funding the activities of said school districts.

(5) The superintendent of public instruction is authorized to adopt rules and regulations to carry out the purposes of RCW 28A.41.140 and 28A.41.145. [1972 ex.s. c 14 § 1; 1969 ex.s. c 217 § 4. Like section formerly RCW 28.41.145.]

Construction—1972 ex.s. c 14: "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 held invalid." [1972 ex.s. c 14 § 2.] This applies to RCW 28A.41.145.

28A.41.150 Adjustments to meet emergencies. In the event of an unforeseen emergency, in the nature of either an unavoidable cost to a district or unexpected variation in anticipated revenues to a district, the state superintendent is authorized, for not to exceed two years, to make such an adjustment in the allocation of funds as is consistent with the intent of this chapter in providing an equal educational opportunity for the children of such district or districts. [1969 ex.s. c 223 § 28A.41.150. Prior: 1965 ex.s. c 154 § 4. Formerly RCW 28.41.150.]

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.*

28A.41.161 Reimbursement for transportation costs—Safe walk-ways in lieu of bus route or bus run—Reimbursement of costs, when. See RCW 28A.24.150.

28A.41.165 Reimbursement of school districts for traffic safety education costs. See RCW 46.81.070.

28A.41.170 State superintendent may make rules and regulations. The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his duties under this chapter: *Provided*, That the superintendent of public instruction shall have the authority to make rules and regulations allowing school districts to receive state apportionment moneys as provided in RCW 28A.41.130 when said districts are unable to fulfill the requirements of a full school year of one hundred eighty days due to an unforeseen emergency caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, community disaster, or act of God. [1973 1st ex.s. c 78 § 1; 1972 ex.s. c 105 § 4; 1971 c 46 § 1; 1969 ex.s. c 3 § 2; 1969 ex.s. c 223 § 28A.41.170. Prior: 1965 ex.s. c 154 § 6. Formerly RCW 28.41.170.]

Effective date—Severability—1972 ex.s. c 105: See notes following RCW 28A.35.010.

28A.41.175 Reimbursement to districts through nonpayment of local property taxes—Procedure. Each school district shall estimate and report to the superintendent of public instruction by June 15, of each year the amount of moneys the district will fail to receive during their present fiscal year due to the nonpayment of local property taxes from the regular levy within the school district less an estimated amount for delinquent payments from prior year regular levies; such net estimate shall be based upon the amount of moneys the district failed to receive because of nonpayment of regular levy property taxes during the first six months of the then fiscal year and during the last six months of the preceding fiscal year. The superintendent of public instruction shall present in his budget submittal to the governor an amount sufficient to reimburse the school districts for moneys lost due to such nonpayment of taxes as described in this section, which moneys shall be deemed amounts needed for state support to the common schools under RCW 28A.41.050. [1972 ex.s. c 146 § 2.]

28A.41.180 Reimbursement for substitute if employee serves state board or superintendent. If the superintendent of public instruction or the state board of education, in carrying out their powers and duties under Title 28A RCW, request the service of any certificated employee of a school district upon any committee formed for the purpose of furthering education within the state, or within any school district therein, and such service would result in a need for a school district to employ a substitute for such certificated employee during such service, payment for such a substitute may be made by the superintendent of public instruction from funds appropriated by the legislature for the current use

of the common schools and such payments shall be construed as amounts needed for state support to the common schools under RCW 28A.41.050. If such substitute is paid by the superintendent of public instruction, no deduction shall be made from the salary of the certificated employee. In no event shall a school district deduct from the salary of a certificated employee serving on such committee more than the amount paid the substitute employed by the district. [1973 1st ex.s. c 3 § 1.]

28A.41.200 School plant facilities aid—Bond issues. See chapter 28A.47 RCW.

28A.41.220 Minimum guarantee to school districts for 1974–75 school year. Notwithstanding any other law to the contrary, the minimum guarantee of state and local funds to school districts for the 1974–75 school year shall be [the] lesser of the following amounts: Ninety-five percent of the average amount per enrolled student, excluding special levies, which a district realized from state and local funds during the preceding three school years; or, the total amount of money received from state and local funds, excluding special levies and the July, 1973, distribution of state collected 2-mill revenue to schools, during the 1973–74 school year. [1974 ex.s. c 89 § 2.]

28A.41.250 URRD education programs—Budget request for. The superintendent of public instruction shall submit to each regular session of the legislature a programmed budget request for urban, rural, racial, and disadvantaged education programs. [1974 ex.s. c 85 § 1.]

Severability—1974 ex.s. c 85: "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 85 § 7.] This applies to RCW 28A.41.250, 28A.41.260, 28A.41.270, 28A.41.280 and 28A.41.290.

28A.41.260 URRD advisory committee—Appointment, terms. The superintendent of public instruction, within a reasonable time after July 24, 1974, shall appoint a state-wide urban, rural, racial, and disadvantaged advisory committee composed of twenty-one interested citizens, to serve at the pleasure of the superintendent. [1974 ex.s. c 85 § 2.]

Severability—1974 ex.s. c 85: See note following RCW 28A.41.250.

28A.41.270 URRD education programs—Funding requests for. For the purposes of the urban, rural, racial, and disadvantaged program, the superintendent of public instruction shall be authorized to accept and fund program requests submitted by and operated by any public or private agency: *Provided*, That before such agency may submit a proposal to the superintendent of public instruction the proposal shall be submitted to the school district within which the program will be operated in order to give the school district an opportunity to review the proposal: *Provided further*, That no public or private agency may receive funds under this section if they are prohibited from receiving or using public money by the operation of other law. [1974 ex.s. c 85 § 3.]

Severability—1974 ex.s. c 85: See note following RCW 28A.41.250.

28A.41.280 URRD education programs—Rules and regulations, mandatory concerns. For the purpose of the administration of urban, rural, racial, and disadvantaged programs, the superintendent of public instruction, pursuant to RCW 28A.41.170, shall adopt and implement rules and regulations which shall include but not be limited to the following legislative concerns:

(1) That no local school district or private agency request shall be approved unless the school district or agency has meaningfully involved citizens representing the target group affected in program development.

(2) That no programs of a community-wide nature shall be approved without significant involvement in program development by that community.

(3) That programs shall be evaluated on a biennial basis, and no program shall be funded for more than two years unless the objectives of the program have been substantially achieved or are in the process of being achieved.

(4) That programs involving interdistrict cooperation and/or the coordination with federal funding shall receive priority for state funding. [1974 ex.s. c 85 § 4.]

Severability—1974 ex.s. c 85: See note following RCW 28A.41.250.

28A.41.290 URRD educational programs—Assistance to local districts. The superintendent of public instruction shall have the duty to assist school districts who service urban, rural, racial, and disadvantaged populations in the formulation of total school programs that meet the needs of these populations, including the development of programs to be financed through urban, rural, racial, and disadvantaged funds. [1974 ex.s. c 85 § 5.]

Severability—1974 ex.s. c 85: See note following RCW 28A.41.250.

Chapter 28A.44

BASIS OF APPORTIONMENT AT COUNTY LEVEL—COUNTY HIGH SCHOOL LEVY AGAINST NONHIGH SCHOOL DISTRICTS

Sections

- 28A.44.040 Attendance basis for apportionments at county level.
 - 28A.44.045 School district divisions—High and nonhigh.
 - 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.44.095 Reimbursement not a tuition charge.
 - 28A.44.100 Transfer of funds by county treasurer.
 - 28A.44.110 Appeal of certification of claim for reimbursement.
 - 28A.44.120 High school district funds abolished—Accounts created.
 - 28A.44.130 Balance of claims for certain school years may be paid.
- Adjustment of bonded indebtedness, tax levy to pay: RCW 28A.57.220.*

Exemptions: State Constitution Art. 7 § 1 (Amendment 14).

Joint districts

apportionment of taxes: RCW 28A.57.290.

assessed valuation by county assessor: RCW 28A.57.280.

levy and collection: RCW 28A.57.300.

Nonhigh school district capital fund aid to high school districts, tax levy: RCW 28A.56.050.

Validating indebtedness, deficiency levy to pay: RCW 28A.52.070.

28A.44.040 Attendance basis for apportionments at county level. The weighted student enrollment as computed under RCW 28A.41.140 accredited to each school district or part thereof within a county shall be the basis upon which the real estate sales tax proceeds as provided for in chapter 28A.45 RCW and apportionments from the county current school fund shall be made. [1969 ex.s. c 223 § 28A.44.040. Prior: 1945 c 141 § 8; Rem. Supp. 1945 § 4940–7. Formerly RCW 28.44.040.]

28A.44.045 School district divisions—High and nonhigh. For the purposes of RCW 28A.44.045 through 28A.44.100 all school districts in the state of Washington shall be and the same are hereby divided into two divisions to be known and designated respectively as high school districts and nonhigh school districts. [1969 ex.s. c 223 § 28A.44.045. Prior: 1917 c 21 § 1; RRS § 4710. Formerly RCW 28.44.045, 28.01.040, part.]

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 October 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-'76 2nd ex.s. c 118 § 24; 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.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

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 nonhigh 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 November 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 as determined pursuant to RCW 28A.44.080(2) and the total state guarantee, including the equal guarantee provided for in RCW 28A.41.130, per weighted 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-'76 2nd ex.s. c 118 § 25; 1975 1st ex.s. c 275 § 64; 1972 ex.s. c 124 § 2.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

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 December, 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-'76 2nd ex.s. c 118 § 26; 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.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

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.44.095 Reimbursement not a tuition charge. The reimbursement of a high school district for cost of educating high school pupils for a nonhigh school district, as provided for in RCW 28A.44.045 through 28A.44.100, shall not be deemed a tuition charge as affecting the apportionment of current state school funds. [1969 ex.s. c 223 § 28A.44.095. Prior: 1917 c 21 § 11; RRS § 4720. Formerly RCW 28.44.095.]

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.

28A.44.110 Appeal of certification of claim for reimbursement. Notwithstanding any other provision of law, it shall be deemed the right of the board of directors of any nonhigh school district to appeal the determination and certification of the claim for reimbursement, as provided in RCW 28A.44.080 and 28A.44.085, to the state board of education if such claim is deemed inappropriate by such board of directors and such appeal shall be deemed a contested case for the purposes of chapter 34.04 RCW. [1972 ex.s. c 124 § 6.]

Effective date—Severability—1972 ex.s. c 124: See notes following RCW 28A.44.080.

28A.44.120 High school district funds abolished—Accounts created. Every high school district fund in each county of the state is hereby abolished, and county treasurers shall transfer the moneys therein or any moneys thereafter paid to the credit of such fund into an account for the satisfaction of claims to high school districts in carrying out the purposes of chapter 28A.44 RCW as now or hereafter amended. [1972 ex.s. c 124 § 7.]

Effective date—Severability—1972 ex.s. c 124: See notes following RCW 28A.44.080.

28A.44.130 Balance of claims for certain school years may be paid. The board of directors of any nonhigh school district, at any time, may pay from operational and maintenance funds any balance of a high school district claim under this chapter for the 1971–1972 and 1972–1973 school years which may have resulted from a lack of sufficient allocations pursuant to RCW 28A.44.100 prior to the effective date of chapter 124, Laws of 1972 ex. sess. to cover the claim established pursuant to RCW 28A.44.050 as the same was then enacted. [1972 ex.s. c 124 § 11.]

Effective date—Severability—1972 ex.s. c 124: See notes following RCW 28A.44.080.

Chapter 28A.45 EXCISE TAX ON REAL ESTATE SALES

Sections

- 28A.45.010 "Sale" defined.
- 28A.45.020 "Seller" defined.
- 28A.45.030 "Selling price" defined.
- 28A.45.035 Determining selling price of leases with option to purchase—Mining property—Payment, security when selling price not separately stated.
- 28A.45.040 Duty of counties to make payments to school districts—Tax on real estate sales in lieu.
- 28A.45.050 Levy of tax—Rate—Disposition of proceeds.
- 28A.45.060 Tax on sale of property located in county.
- 28A.45.070 Tax is lien on property—Enforcement.
- 28A.45.080 Tax is seller's obligation—Choice of remedies.
- 28A.45.090 Payment of tax—Evidence of payment—Recording.
- 28A.45.100 Interest on delinquent taxes—Reporting sales—Procedures.
- 28A.45.105 Single family residential property, tax credit when subsequent transfer of within nine months for like property.
- 28A.45.120 Standards for reporting, application and collection of tax.

28A.45.010 "Sale" defined. As used in this chapter, the term "sale" shall have its ordinary meaning and shall include any conveyance, grant, assignment, quitclaim, or transfer of the ownership of or title to real property, including standing timber, or any estate or interest therein for a valuable consideration, and any contract for such conveyance, grant, assignment, quitclaim, or transfer, and any lease with an option to purchase real property, including standing timber, or any estate or interest therein or other contract under which possession of the property is given to the purchaser, or any other person by his direction, which title is retained by the vendor as security for the payment of the purchase price.

The term shall not include a transfer by gift, devise, or inheritance, a transfer of any leasehold interest other than of the type mentioned above, a cancellation or forfeiture of a vendee's interest in a contract for the sale of real property, whether or not such contract contains a forfeiture clause, or deed in lieu of foreclosure of a mortgage or the assumption by a grantee of the balance owing on an obligation which is secured by a mortgage or deed in lieu of forfeiture of the vendee's interest in a contract of sale where no consideration passes otherwise or the partition of property by tenants in common by agreement or as the result of a court decree, any transfer, conveyance, or assignment of property or interest in property from one spouse to the other in accordance with the terms of a decree of divorce or in fulfillment of a property settlement agreement incident thereto, the assignment or other transfer of a vendor's interest in a contract for the sale of real property, even though accompanied by a conveyance of the vendor's interest in the real property involved, transfers by appropriation or decree in condemnation proceedings brought by the United States, the state or any political subdivision thereof, or a municipal corporation, a mortgage or other transfer of an interest in real property merely to secure a debt, or the assignment thereof, any transfer or conveyance made pursuant to an order of sale by the court in any mortgage or lien foreclosure proceeding or upon execution of a judgment, or deed in lieu of foreclosure to satisfy a mortgage, a conveyance to the federal housing

administration or veterans administration by an authorized mortgagee made pursuant to a contract of insurance or guaranty with the federal housing administration or veterans administration, nor a transfer in compliance with the terms of any lease or contract upon which the tax as imposed by this chapter has been paid or where the lease or contract was entered into prior to the date this tax was first imposed, nor the sale of any grave or lot in an established cemetery, nor a sale by or to the United States, this state or any political subdivision thereof, or a municipal corporation of this state.

The term sale shall not include a transfer to a corporation which is wholly owned by the transferor, his spouse or his children: *Provided*, That if such transferee corporation or such transferor, his spouse, or his children voluntarily transfer the property or the stock, as the case may be, within five years of the exchange, excise taxes shall become due and payable on the original transfer as otherwise provided by law. [1970 ex.s. c 65 § 1; 1969 ex.s. c 223 § 28A.45.010. Prior: 1955 c 132 § 1; 1953 c 94 § 1; 1951 2nd ex.s. c 19 § 1; 1951 1st ex.s. c 11 § 7. Formerly RCW 28.45.010.]

Effective date—Severability—1970 ex.s. c 65: See notes following RCW 82.03.050.

28A.45.020 "Seller" defined. As used in this chapter and in any ordinance enacted pursuant thereto, the term "seller," unless otherwise indicated by the context, shall mean any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm, copartnership, joint venture, club, company, joint stock company, business trust, municipal corporation, quasi municipal corporation, corporation, association, society, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; but it shall not include the United States or the state of Washington. [1969 ex.s. c 223 § 28A.45.020. Prior: 1951 1st ex.s. c 11 § 6. Formerly RCW 28.45.020.]

28A.45.030 "Selling price" defined. As used in this chapter, the term "selling price" means the consideration, including money or anything of value, paid or delivered or contracted to be paid or delivered in return for the transfer of the real property or estate or interest in real property, and shall include the amount of any lien, mortgage, contract indebtedness, or other incumbrance, either given to secure the purchase price, or any part thereof, or remaining unpaid on such property at the time of sale.

The term shall not include the amount of any outstanding lien or incumbrance in favor of the United States, the state, or a municipal corporation for the taxes, special benefits, or improvements. [1969 ex.s. c 223 § 28A.45.030. Prior: 1951 2nd ex.s. c 19 § 2; 1951 1st ex.s. c 11 § 8. Formerly RCW 28.45.030.]

28A.45.035 Determining selling price of leases with option to purchase—Mining property—Payment, security when selling price not separately stated. The state department of revenue shall provide by rule for the determination of the selling price in the case of leases with option to purchase, and shall further provide that

the tax shall not be payable, where inequity will otherwise result, until and unless the option is exercised and accepted. A conditional sale of mining property in which the buyer has the right to terminate the contract at any time, and a lease and option to buy mining property in which the lessee-buyer has the right to terminate the lease and option at any time, shall be taxable at the time of execution only on the consideration received by the seller or lessor for execution of such contract, but the rule shall further provide that the tax due on any additional consideration paid by the buyer and received by the seller shall be paid to the county treasurer (1) at the time of termination, or (2) at the time that all of the consideration due to the seller has been paid and the transaction is completed except for the delivery of the deed to the buyer, or (3) at the time when the buyer unequivocally exercises an option to purchase the property, whichever of the three events occurs first.

The term "mining property" means property containing or believed to contain metallic minerals and sold or leased under terms which require the purchaser or lessor to conduct exploration or mining work thereon and for no other use. The term "metallic minerals" does not include clays, coal, sand and gravel, peat, gypsite, or stone, including limestone.

The state department of revenue shall further provide by rule for cases where the selling price is not separately stated or is not ascertainable at the time of sale, for the payment of the tax at a time when the selling price is ascertained, in which case suitable security may be required for payment of the tax, and may further provide for the determination of the selling price by an appraisal by the county assessor, based on the full and true market value, which appraisal shall be prima facie evidence of the selling price of the real property. [1969 ex.s. c 223 § 28A.45.035. Prior: 1967 ex.s. c 149 § 1; 1959 c 208 § 1; 1951 2nd ex.s. c 19 § 3. Formerly RCW 28.45.035.]

28A.45.040 Duty of counties to make payments to school districts—Tax on real estate sales in lieu. It shall be the duty of the board of county commissioners of each county to pay to each school district a sum equal to seventeen cents per day for each weighted student enrolled, based upon a full school year of one hundred eighty days. The year during which the payments herein required are to be made shall be from the first day of May to the last day of April, inclusive: *Provided*, That in the event a county levies a tax of not less than one percent on the sales of real estate in the county as permitted and provided for in this chapter and assigns the entire proceeds of one percent or so much as necessary to make the above payment to the county school fund for distribution to the various school districts, there shall be no further liability upon the county for this purpose. [1969 ex.s. c 223 § 28A.45.040. Prior: 1967 ex.s. c 149 § 2; 1965 ex.s. c 171 § 2; 1955 c 187 § 9; 1951 1st ex.s. c 11 § 1. Formerly RCW 28.45.040.]

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.

28A.45.060 Tax on sale of property located in county. The real estate sales tax provided for herein shall be levied upon each sale of real property located within the county. [1969 ex.s. c 223 § 28A.45.060. Prior: 1951 1st ex.s. c 11 § 5. Formerly RCW 28.45.060.]

28A.45.070 Tax is lien on property—Enforcement. The tax herein provided for and any interest or penalties thereon shall be a specific lien upon each piece of real property sold from the time of sale until the tax shall have been paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. [1969 ex.s. c 223 § 28A.45.070. Prior: 1951 1st ex.s. c 11 § 9. Formerly RCW 28.45.070.]

28A.45.080 Tax is seller's obligation—Choice of remedies. The tax levied under this chapter shall be the obligation of the seller and the county treasurer may, at his option, enforce the obligation through an action of debt against the seller or he may proceed in the manner prescribed for the foreclosure of mortgages and resort to one course of enforcement shall not be an election not to pursue the other. [1969 ex.s. c 223 § 28A.45.080. Prior: 1951 1st ex.s. c 11 § 10. Formerly RCW 28.45.080.]

28A.45.090 Payment of tax—Evidence of payment—Recording. The tax hereby imposed shall be paid to and collected by the county treasurer who shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording. A receipt issued by the county treasurer

for the payment of the tax imposed under this chapter shall be evidence of the satisfaction of the lien imposed hereunder and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax shall be accepted by the county auditor for filing or recording until the tax shall have been paid and the stamp affixed thereto; in case the tax is not due on the transfer, the instrument shall not be so accepted until suitable notation of such fact has been made on the instrument by the treasurer. [1969 ex.s. c 223 § 28A.45.090. Prior: 1951 2nd ex.s. c 19 § 4; 1951 1st ex.s. c 11 § 11. Formerly RCW 28.45.090.]

28A.45.100 Interest on delinquent taxes—Reporting sales—Procedures. The board of county commissioners may provide the rate of interest to be levied against delinquent taxes provided for under this chapter and, subject to RCW 28A.45.120, may prescribe the manner in which sales of real property shall be reported to the county treasurer and the tax paid thereon. The county commissioners, subject to RCW 28A.45.120, may prescribe procedures supplementary to this chapter. [1969 ex.s. c 223 § 28A.45.100. Prior: 1951 1st ex.s. c 11 § 12. Formerly RCW 28.45.100.]

28A.45.105 Single family residential property, tax credit when subsequent transfer of within nine months for like property. Where single family residential property is being transferred as the entire or part consideration for the purchase of other single family residential property and a licensed real estate broker or one of the parties to the transaction accepts transfer of said property, a credit for the amount of the tax paid at the time of the transfer to the broker or party shall be allowed toward the amount of the tax due upon a subsequent transfer of the property by the broker or party if said transfer is made within nine months of the transfer to the broker or party: *Provided*, That if the tax which would be due on the subsequent transfer from the broker or party is greater than the tax paid for the prior transfer to said broker or party the difference shall be paid, but if the tax initially paid is greater than the amount of the tax which would be due on the subsequent transfer no refund shall be allowed. [1969 ex.s. c 223 § 28A.45.105. Prior: 1967 ex.s. c 149 § 61. Formerly RCW 28.45.105.]

28A.45.120 Standards for reporting, application and collection of tax. The department of revenue is authorized and directed to prescribe minimum standards for uniformity in reporting, application, and collection of the real estate excise tax imposed by this chapter. [1969 ex.s. c 223 § 28A.45.120. Prior: 1967 ex.s. c 149 § 3. Formerly RCW 28.45.120.]

Chapter 28A.46 STATE SCHOOL EQUALIZATION FUND

Sections

- 28A.46.010 Fund created—Transfer of excess—Appropriations—Warrants.
28A.46.011 Motor vehicle excise tax as source of state school equalization fund.

28A.46.020 Receipt of federal funds for school purposes.

28A.46.010 Fund created—Transfer of excess—Appropriations—Warrants. There is created a special state school fund to be known as the state school equalization fund, into which shall be deposited such funds as are directed by law to be placed therein. Any amounts in this fund in excess of current appropriations shall be transferred by the state treasurer to the general fund quarterly, on or before the twenty-fifth day of January, April, July and October of each year. All appropriations made by the legislature from the state school equalization fund shall be paid out of moneys in the general fund of the state. All warrants drawn on the state school equalization fund and presented for payment shall be paid from the general fund of the state. [1969 ex.s. c 223 § 28A.46.010. Prior: 1959 c 264 § 1; 1937 c 226 § 1; RRS § 4934-3. Formerly RCW 28.47.010.]

28A.46.011 Motor vehicle excise tax as source of state school equalization fund. See RCW 82.44.150.

28A.46.020 Receipt of federal funds for school purposes. See RCW 28A.02.100.

Chapter 28A.47 SCHOOL PLANT FACILITIES AID—BOND ISSUES

Sections

- 28A.47.050 Statement of intent.
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Acquisition of works of art out of moneys appropriated for state assistance for original construction of school plant facility: RCW 28A.58.055.

28A.47.050 Statement of intent. It is hereby declared to be the intent of the legislature that the following provisions be enacted for the purpose of establishing and providing for the operation of a program of state assistance to school districts in providing school plant facilities. [1969 ex.s. c 223 § 28A.47.050. Prior: 1947 c 278 § 1; Rem. Supp. 1947 § 4940-12. Formerly RCW 28.47.050.]

28A.47.055 Definitions. Unless the context indicates otherwise the following words and phrases when used in this chapter shall have the meaning given in this section:

(1) An "educational unit" means one full time certificated employee for one school year; in case of part time

employees, each hour's service per day for an entire school year, or one hundred eighty hours, shall equal one-sixth of a unit; and

(2) A "certificated employee" means an employee holding a position requiring a teaching certificate. [1969 ex.s. c 223 § 28A.47.055. Prior: 1955 c 187 § 2, part; 1953 c 282 § 1, part. Formerly RCW 28.41.010, part.]

28A.47.060 Duties of state board of education. The state board of education shall have the power and it shall be its duty (1) to prescribe rules and regulations governing the administration, control, terms, conditions, and disbursements of allotments to school districts to assist them in providing school plant facilities; (2) to approve allotments to districts that apply for state assistance whenever the board deems such action advisable and in so doing to give due consideration to the findings, reports, and recommendations of the superintendent of public instruction pertaining thereto; (3) to authorize the payment of approved allotments by warrant of the state treasurer; and (4) in the event that the amount of state assistance applied for exceeds the funds available for such assistance during any biennium, to make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance and/or to prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the state board. [1969 ex.s. c 223 § 28A.47.060. Prior: 1947 c 278 § 2; Rem. Supp. 1947 § 4940-13. Formerly RCW 28.47.060.]

28A.47.070 Basis of state aid for school plants. The amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The board of directors of the district 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 architect's 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 superintendent of public instruction shall (a) ascertain the assessed valuation of the district adjusted to fifty percent of the true and fair value in money of the taxable property in the district in accordance with the ratio of assessed valuation to actual valuation fixed by the state board of equalization for the county to which the district belongs; and (b) compute the ratio of the aforesaid assessed valuation of the district to the number of educational units approved prior thereto by the state board of education for allotment to the district of funds receivable under the provisions of RCW 28A.47.050 through 28A.47.120: *Provided*, That this number of units may be increased by the aforesaid officer for the use thereof specified in this chapter, upon the finding by said officer that completion of the proposed project will

provide facilities for additional units and that such additional units will be needed to serve the school population of the district.

(3) The ratio of the assessed valuation of the district to the number of educational units thereof, computed in the manner hereinabove provided for, shall then be used in determining the percentage of state assistance for the district in accordance with the following table:

Ratio of assessed valuation to number of educational units	Percentage of state assistance
\$ 28,570 or less to 1	75.0%
30,000 to 1	73.9
35,000 to 1	70.2
40,000 to 1	66.7
45,000 to 1	63.3
50,000 to 1	60.0
55,000 to 1	56.9
60,000 to 1	53.8
65,000 to 1	50.9
70,000 to 1	48.1
75,000 to 1	45.5
80,000 to 1	42.9
85,000 to 1	40.4
90,000 to 1	37.9
95,000 to 1	35.6
100,000 to 1	33.3
105,000 to 1	31.1
110,000 to 1	29.0
115,000 to 1	27.0
120,000 to 1	25.0
130,000 to 1	21.2
140,000 to 1	17.6
150,000 to 1	14.3
160,000 to 1	11.1
170,000 to 1	8.1
180,000 to 1	5.3
190,000 to 1	2.6
200,000 to 1	..

(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 superintendent of public instruction: *Provided further*, That additional state assistance may be allowed if it is found by the superintendent of public instruction 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 and excessive past or clearly foreseeable future increase in school population, and other conditions similarly emergent in nature; or (b) a special school housing burden imposed by virtue of the admission of nonresident students into parental schools or 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,

1955, and without benefit of the state assistance provided for in RCW 28A.47.050 to 28A.47.120, inclusive, the construction of a needed school building project or projects approved in conformity with the requirements of chapter 28A.47 RCW, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose; or (d) conditions similar to those defined under (a), (b), and (c) hereinabove, creating a like emergency. [1969 ex.s. c 223 § 28A.47.070. Prior: 1955 ex.s. c 3 § 8; 1949 c 108 § 1; 1947 c 278 § 3; Rem. Supp. 1949 § 4940-14. Formerly RCW 28.47.070.]

28A.47.073 Modernization of existing school facilities. Whenever funds are specifically appropriated for modernization of existing school facilities, the state board of education is authorized to approve the use of such funds for modernization of existing facilities, modernization being limited to major structural changes in such facilities and may include as incidental thereto the replacement of fixtures, fittings, furnishings and service systems of a building in order to bring it up to a contemporary state consistent with the needs of changing educational programs. The allocation of such funds shall be made upon the same basis as funds used for the financing of a new school plant project utilized for a similar purpose. [1969 ex.s. c 223 § 28A.47.073. Prior: 1967 ex.s. c 21 § 1. Formerly RCW 28.47.073.]

28A.47.075 Portable buildings or classrooms. State matching funds shall not be denied to any school district undertaking any construction, repairs or improvements for school district purposes solely on the ground that said construction, repairs and improvements are in connection with portable buildings or classrooms. [1969 ex.s. c 223 § 28A.47.075. Prior: 1953 c 158 § 1. Formerly RCW 28.47.075.]

28A.47.080 Applications for aid—Rules and regulations—Recommendations. All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the aforesaid officer for the purpose of securing information relating to (1) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (2) the ability of such districts to provide capital outlay funds by local effort, (3) the need for improvement of school administrative units and school attendance areas among or within such districts, and (4) any other pertinent matters. Recommendations respecting action on the aforesaid applications shall be submitted to the state board of education by the superintendent of public instruction together with such reports of the findings, studies, and surveys made by said officer as may be required by the state board. [1969 ex.s. c 223 § 28A.47.080. Prior: 1947 c 278 § 4; Rem. Supp. 1947 § 4940-15. Formerly RCW 28.47.080.]

28A.47.090 Manual—Contents—Preparation and revision. It shall be the duty of the superintendent of public instruction, in consultation with the Washington *state department of health, to prepare, and so often as he deems necessary revise, a manual for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school plant facilities for the common schools. In the preparation and revision of the aforesaid manual due consideration shall be given to the presentation of information regarding (1) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.47.050 through 28A.47.120; (2) procedures in inaugurating and conducting a school plant planning program for a school district; (3) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (4) the planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (5) an acceptable school building maintenance program and the necessity therefor; (6) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (7) any other matters regarded by the aforesaid officer as pertinent or related to the purposes and requirements of RCW 28A.47.050 through 28A.47.120. [1969 ex.s. c 223 § 28A.47.090. Prior: 1947 c 278 § 5; Rem. Supp. 1947 § 4940-16. Formerly RCW 28.47.090.]

*Reviser's note: "state department of health" abolished; powers and duties transferred to department of social and health services by 1970 ex.s. c 18. See chapter 43.20A RCW.

28A.47.100 State superintendent to assist districts and state board. The superintendent of public instruction shall furnish (1) to school districts seeking state assistance under the provisions of RCW 28A.47.050 through 28A.47.120 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities for such district, and (2) to the state board of education such service as may be required by the board in the exercise of the powers and the performance of the duties vested in and required to be performed by the board under the provisions of RCW 28A.47.050 through 28A.47.120. [1969 ex.s. c 223 § 28A.47.100. Prior: 1947 c 278 § 6; Rem. Supp. 1947 § 4940-17. Formerly RCW 28.47.100.]

28A.47.120 Federal grants—Rules and regulations. Insofar as is permissible under acts of congress, funds made available by the federal government for the purpose of assisting school districts in providing school plant facilities shall be made available to such districts in conformity with rules and regulations which the state board of education shall establish. [1969 ex.s. c 223 § 28A.47.120. Prior: 1947 c 278 § 8; Rem. Supp. 1947 § 4940-19. Formerly RCW 28.47.120.]

28A.47.130 1949 bond issue for school plant facilities—Form, term, sale, etc. For the purpose of furnishing funds for state assistance in providing public school plant facilities under the provisions of RCW 28A.47.050 through 28A.47.120, the state finance committee is hereby authorized to issue, at any time prior to January 1, 1960, general obligation bonds of the state of Washington in the sum of forty million dollars, or so much thereof as shall be required to finance the program herein set out, to be paid and discharged within twenty years of the date of issuance.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof: *Provided*, That none of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of three percent per annum.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1969 ex.s. c 223 § 28A.47.130. Prior: 1949 c 229 § 1. Formerly RCW 28.47.130.]

28A.47.140 1949 bond issue for school plant facilities—Proceeds of bond sale—Deposit. The proceeds from the sale of the bonds authorized herein, 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 public school building construction account of the general fund. [1969 ex.s. c 223 § 28A.47.140. Prior: 1949 c 229 § 2. Formerly RCW 28.47.140.]

28A.47.150 1949 bond issue for school plant facilities—Appropriation from building construction account—Purposes. The sum of forty million dollars, or so much thereof as may be necessary, is appropriated from the public school building construction account of the general fund to the state finance committee to be expended by the committee for the payment of expense incident to the sale and issuance of the bonds authorized herein and through allotments made, in its discretion, to the state board of education for the purpose of carrying out the purposes of RCW 28A.47.050 through 28A.47.120. [1969 ex.s. c 223 § 28A.47.150. Prior: 1949 c 229 § 3. Formerly RCW 28.47.150.]

28A.47.160 1949 bond issue for school plant facilities—Bond redemption account created—Prior rights as to sales tax revenues—Deposits—Enforcement. The public school building bond redemption fund is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 28A.47.130 through 28A.47.180. 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 bond retirement and interest requirements and the state treasurer shall thereupon deposit such amount in said public school building bond redemption fund from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a first and prior charge against all retail sales tax revenues of the state of Washington.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1969 ex.s. c 223 § 28A.47.160. Prior: 1949 c 229 § 4. Formerly RCW 28.47.160.]

28A.47.170 1949 bond issue for school plant facilities—Sales tax not exclusive. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized in RCW 28A.47.130 through 28A.47.180 and RCW 28A.47.130 through 28A.47.180 shall not be deemed to provide an exclusive method for such payment. [1969 ex.s. c 223 § 28A.47.170. Prior: 1949 c 229 § 5. Formerly RCW 28.47.170.]

28A.47.180 1949 bond issue for school plant facilities—Bonds are legal investment for public funds. The bonds authorized in RCW 28A.47.130 through 28A.47.180 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1969 ex.s. c 223 § 28A.47.180. Prior: 1949 c 229 § 6. Formerly RCW 28.47.180.]

28A.47.210 Investment of current surpluses in public school building construction account and institutional building construction account. Whenever there shall be in the public school building construction account or the institutional building construction account of the general fund in the state treasury more cash than is required to cover current allotments as provided in RCW 28A.47.130 to 28A.47.180, inclusive, or RCW 72.99.010 to 72.99.060, inclusive, the state finance committee may invest such portion of such funds as the committee may deem expedient in United States discount bills, certificates of indebtedness, notes, or bonds. Such securities may be purchased directly from the United States government through the federal reserve banking system or in the open market at such prices and upon such terms as the state finance committee may determine, and may be sold at such times as the state finance committee may deem expedient or necessary. [1969 ex.s. c 223 § 28A.47.210. Prior: 1951 c 147 § 1. Formerly RCW 28.47.210.]

28A.47.220 Investment of current surpluses in public school building construction account and institutional building construction account—Deposit of securities—Duties of treasurer. Upon such investment being

made the state treasurer shall draw his warrant on the proper account in the general fund for the amount so invested and the securities so purchased shall be deposited directly with the state treasurer or in trust for the state treasurer, either with the fiscal agent of the state in New York City or with any bank in the state that maintains a trust department and is an approved depository of state funds. In the event securities are purchased and deposited with the fiscal agent of the state or in a state bank as provided herein a trust certificate enumerating and describing the securities so held shall be provided to the state treasurer whose duty it shall be to collect all interest payments falling due thereon and the principal at maturity. [1969 ex.s. c 223 § 28A.47.220. Prior: 1951 c 147 § 2. Formerly RCW 28.47.220.]

28A.47.230 Investment of current surpluses in public school building construction account and institutional building construction account—Investment income credited to account. All income earned from investment of the public school building construction account in the general fund shall be credited to the public school building bond redemption fund. All income earned from investment of the institutional building construction account in the general fund shall be credited to the institutional building bond redemption fund. [1969 ex.s. c 223 § 28A.47.230. Prior: 1951 c 147 § 3. Formerly RCW 28.47.230.]

28A.47.420 1955 emergency construction of school plant facilities—Bonds authorized—Form, term, etc.—Continuation of levy. For the purpose of furnishing funds for state assistance in providing public school plant facilities under the provisions of RCW 28A.47.050 through 28A.47.120 there shall be issued and sold, at any time prior to April 1, 1959, limited obligation bonds of the state of Washington in the sum of thirty million dollars to be paid and discharged not more than thirty years after the date of issuance. The issuance, sale, and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the form of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of four percent per annum. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner prescribed in RCW 28A.47.420 through 28A.47.450 and from the proceeds of taxes provided for in RCW 28A.47.440. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof

under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached to such bonds. Such bonds shall be payable at such places as the state finance committee may provide. [1969 ex.s. c 223 § 28A.47.420. Prior: 1955 ex.s. c 3 § 1. Formerly RCW 28.47.420.]

28A.47.425 1955 emergency construction of school plant facilities—Proceeds from bond sale—Deposit. The proceeds from the sale of the bonds authorized herein shall be deposited in the public school building construction account in the general fund. [1969 ex.s. c 223 § 28A.47.425. Prior: 1955 ex.s. c 3 § 2. Formerly RCW 28.47.425.]

28A.47.430 1955 emergency construction of school plant facilities—Appropriation from public school construction account—Purposes—Local responsibility. The sum of thirty million dollars, or so much thereof as may be necessary, is appropriated from the public school building construction account in the general fund to the state finance committee to be expended by the committee for the payment of expenses incident to the sale and issuance of the bonds authorized herein and through allotments made to the state board of education at the direction of the school emergency construction commission for the purpose of carrying out the provisions of RCW 28A.47.070 and 28A.47.420 through 28A.47.450: *Provided*, That no part of the aforesaid thirty million dollars shall be allotted to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation plus such further amount as may be required by the school emergency construction commission: *Provided, further*, That the school emergency construction commission shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1969 ex.s. c 223 § 28A.47.430. Prior: 1955 ex.s. c 3 § 3. Formerly RCW 28.47.430.]

28A.47.435 1955 emergency construction of school plant facilities—Additional allotment authorized—Effect of allocation on future disbursements to district. If a school district which has qualified for an allotment of state funds for school building construction in conformity with the requirements of RCW 28A.47.430 is found by the school emergency construction commission to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.47.070, an additional allotment may be made to such district: *Provided*, That the total amount allotted shall not exceed ninety percent of the total cost of the project including the cost of the site and equipment. At any time thereafter when the school emergency construction commission finds that the financial position of such school district has improved through

an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements or for any of these reasons, the amount of such additional allotment, or any part of such amount as the school emergency construction commission determines, shall be deducted, under terms and conditions prescribed by the commission, from any state school building construction funds which might otherwise be provided to such district. [1969 ex.s. c 223 § 28A.47.435. Prior: 1955 ex.s. c 3 § 4. Formerly RCW 28.47.435.]

28A.47.440 1955 emergency construction of school plant facilities—Additional tax on cigarettes imposed. In addition to the taxes levied by RCW 73.32.130 and 82.24.020, there is levied and shall be collected by the department of revenue from the persons mentioned in and in the manner provided by chapter 82.24 RCW, as now or hereafter amended, an excise tax upon the sale, use, consumption, handling, possession or distribution of cigarettes in an amount equal to the rate of one-half mill per cigarette, but the provisions of RCW 82.24.070 allowing dealers' compensation for affixing stamps shall not apply to this additional tax. Instead, wholesalers and retailers subject to the provisions of chapter 82.24 RCW shall be allowed as compensation for their services in affixing the stamps for the additional tax required by this section a sum equal to one-half of one percent of the value of the stamps for such additional tax purchased or affixed by them. Wholesalers and retailers subject to the payment of this tax may, if they wish, absorb such additional tax and not pass it on to purchasers without being in violation of this section or any other act relating to the sale or taxation of cigarettes.

Revenues derived from the tax imposed by this section shall be transmitted by the department of revenue to the state treasurer in accordance with the provisions of RCW 82.32.320, to the credit of the public schools building bond redemption fund. The amount so deposited in the aforesaid fund shall be devoted exclusively to payment of interest on and to retirement of the bonds authorized by RCW 28A.47.420.

As additional security for the payment of the bonds herein authorized, all revenues derived from the tax imposed by RCW 82.24.020 over and above the amount required by RCW 73.32.130 to be paid into and retained in the war veterans' compensation bond retirement fund shall be paid into the public schools building bond redemption fund and shall be devoted exclusively to the payment of interest on and to retirement of the bonds authorized by RCW 28A.47.420: *Provided*, That whenever the receipts into the public schools building bond redemption fund from all sources during any one year exceed the annual amounts required for debt service, the balance shall be transferred by the state treasurer to the state general fund. [1972 ex.s. c 157 § 1; 1971 ex.s. c 70 § 1; 1969 ex.s. c 223 § 28A.47.440. Prior: 1959 c 271 § 1; 1955 ex.s. c 3 § 5. Formerly RCW 28.47.440.]

Severability—1972 ex.s. c 157: See note following RCW 82.24.020.

28A.47.445 1955 emergency construction of school plant facilities—Legislature may provide additional means of revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 28A.47.420 through 28A.47.450 and RCW 28A.47.420 through 28A.47.450 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28A.47.445. Prior: 1955 ex.s. c 3 § 6. Formerly RCW 28.47.445.]

28A.47.450 1955 emergency construction of school plant facilities—Bonds are negotiable, legal investments and security. The bonds authorized in RCW 28A.47.420 through 28A.47.450 shall be fully negotiable instruments and shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1969 ex.s. c 223 § 28A.47.450. Prior: 1955 ex.s. c 3 § 7. Formerly RCW 28.47.450.]

28A.47.460 1957 bond issue for construction of school plant facilities—Authorized—Form, term, etc.—Continuation of levy. For the purpose of furnishing funds for state assistance in providing public school plant facilities, there shall be issued and sold, at any time prior to April 1, 1961, limited obligation bonds of the state of Washington in the sum of fifty-two million dollars to be paid and discharged not more than thirty years after the date of issuance. The issuance, sale, and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof, nor shall they bear interest at a rate in excess of four percent per annum. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner and from the proceeds of motor vehicle excise taxes and excise taxes upon the sale, use, consumption, handling or distribution of cigarettes as in RCW 28A.47.460 through 28A.47.560 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide.

[1969 ex.s. c 223 § 28A.47.460. Prior: 1957 c 234 § 1. Formerly RCW 28.47.460.]

28A.47.470 1957 bond issue for construction of school plant facilities—Proceeds from bond sale—Deposit. The proceeds from the sale of the bonds authorized herein shall be deposited in the public school building construction account of the general fund. [1969 ex.s. c 223 § 28A.47.470. Prior: 1957 c 234 § 2. Formerly RCW 28.47.470.]

28A.47.480 1957 bond issue for construction of school plant facilities—Public school building bond redemption fund—1957—Payment from motor vehicle excise tax and cigarette tax. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 28A.47.460 through 28A.47.560. The state treasurer shall thereupon deposit in the public school building bond redemption fund—1957, a fund hereby created in the state treasury as the depository for revenues provided by RCW 28A.47.460 through 28A.47.560 to meet interest payments on and retirement of bonds authorized by RCW 28A.47.460 through 28A.47.560, the sum of two million two hundred fifty thousand dollars from that portion of receipts from the motor vehicle excise tax allocable to the state school equalization fund under RCW 82.44.150 which is not required to meet interest payments on and retirement of bonds heretofore issued. The amount certified to the state treasurer by the state finance committee as aforesaid shall be a first and prior charge, subject only to amounts previously pledged for the payment of interest on and retirement of bonds heretofore issued, against all motor vehicle excise tax revenues of the state allocable to the state equalization fund, which amounts so allocable shall never be less than seventy percent of said excise tax revenues. In addition, the state treasurer shall transfer to the bond redemption fund created by RCW 28A.47.460 through 28A.47.560 all revenues accruing to the public schools building bond redemption fund in conformity with the requirements of RCW 28A.47.440 enacted by the 1955 legislature whenever such revenues from all sources during any one year exceed two million two hundred fifty thousand dollars, said sum being the amount required to be retained in the aforesaid public schools building bond redemption fund under the provisions of RCW 28A.47.440. The amounts so deposited in and transferred to the bond redemption fund created by RCW 28A.47.460 through 28A.47.560 shall be devoted exclusively to the payment of interest on and to the retirement of bonds authorized by RCW 28A.47.460 through 28A.47.560: *Provided*, That whenever the receipts into said bond redemption fund from all sources during any one year exceed the amount needed during that year to meet interest payments on and retirement of bonds authorized by RCW 28A.47.460 through 28A.47.560, all receipts above said amount shall be transferred by the state treasurer to the state general fund. [1969 ex.s. c 223 § 28A.47.480. Prior: 1957 c 234 § 3. Formerly RCW 28.47.480.]

28A.47.490 1957 bond issue for construction of school plant facilities—Legislature may provide additional means of revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 28A.47.460 through 28A.47.560 and RCW 28A.47.460 through 28A.47.560 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28A.47.490. Prior: 1957 c 234 § 4. Formerly RCW 28.47.490.]

28A.47.500 1957 bond issue for construction of school plant facilities—Bonds are negotiable, legal investments and security. The bonds authorized in RCW 28A.47.460 through 28A.47.560 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1969 ex.s. c 223 § 28A.47.500. Prior: 1957 c 234 § 5. Formerly RCW 28.47.500.]

28A.47.510 1957 bond issue for construction of school plant facilities—Appropriation from public school building construction account—Purposes—Local responsibility. The sum of fifty-two million dollars, or so much thereof as may be necessary, is appropriated from the public school building construction account of the general fund to the state finance committee to be expended by the committee for the payment of expenses incident to the sale and issuance of the bonds authorized in RCW 28A.47.460 through 28A.47.560 and through allotments made to the state board of education at the direction of the state board of education for the purpose of carrying out the provisions of RCW 28A.47.460 through 28A.47.560: *Provided*, That no part of the aforesaid fifty-two million dollars shall be allotted to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation plus such further amount as may be required by the state board of education: *Provided, further*, That the state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1969 ex.s. c 223 § 28A.47.510. Prior: 1957 c 234 § 6. Formerly RCW 28.47.510.]

28A.47.520 1957 bond issue for construction of school plant facilities—Duties of state board of education. In allotting the state funds provided by RCW 28A.47.460 through 28A.47.560, the state board of education shall:

(1) Prescribe rules and regulations governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board. [1969 ex.s. c 223 § 28A.47.520. Prior: 1957 c 234 § 7. Formerly RCW 28.47.520.]

28A.47.530 1957 bond issue for construction of school plant facilities—Basis of state aid for school plants. Allocations to school districts of state funds provided by RCW 28A.47.460 through 28A.47.560 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 board of directors of the district 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 architect's 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 board of education shall compute the ratio of the assessed valuation of the district, adjusted in accordance with the ratio of assessed valuation to actual valuation fixed by the state board of equalization for the county to which the district belongs, to the number of educational units approved prior thereto by the state board of education for allotment to the district of funds receivable under the provisions of RCW 28A.47.460 through 28A.47.560: *Provided*, That this number of units may be increased by the state board of education for the use thereof specified in RCW 28A.47.460 through 28A.47.560, upon the finding of said board that completion of the proposed project will provide facilities for additional units and that such additional units will be needed to serve the school population of the district.

(3) The ratio of the adjusted valuation of the district to the number of educational units thereof, computed in the manner hereinabove in this section provided for, shall then be used in determining the percentage of state assistance for the district in accordance with the following table:

Ratio of adjusted valuation to number of educational units	Percentage of state assistance
\$ 10,520 or less to 1	90.0%
15,000 to 1	86.0
20,000 to 1	81.8
25,000 to 1	77.7
28,570 to 1	75.0
30,000 to 1	73.9
35,000 to 1	70.2
40,000 to 1	66.7
45,000 to 1	63.3
50,000 to 1	60.0
55,000 to 1	56.9
60,000 to 1	53.8
65,000 to 1	50.9
70,000 to 1	48.1
75,000 to 1	45.5
80,000 to 1	42.9
85,000 to 1	40.4
90,000 to 1	37.9
95,000 to 1	35.6
100,000 to 1	33.3
105,000 to 1	31.1
110,000 to 1	29.0
115,000 to 1	27.0
120,000 to 1	25.0
130,000 to 1	21.2
140,000 to 1	17.6
150,000 to 1	14.3
160,000 to 1	11.1
170,000 to 1	8.1
180,000 to 1	5.3
190,000 to 1	2.6
200,000 to 1

(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 and excessive past or 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, 1957, 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) conditions similar to those defined under (a), (b), and (c) hereinaabove, creating a like emergency: *Provided, further*, That, in the event that federal assistance in an amount in excess of six million dollars is made available to the state of Washington to be allocated to school districts by the state board of education for public school construction purposes during the 1957-59 biennium, the minimum percentage of state assistance to any district eligible under provisions of RCW 28A.47.460 through 28A.47.560 shall not be less than fifteen percent. [1969 ex.s. c 223 § 28A.47.530. Prior: 1957 c 234 § 8. Formerly RCW 28.47.530.]

28A.47.540 1957 bond issue for construction of school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district. If a school district which has qualified for an allotment of state funds under the provisions of RCW 28A.47.460 through 28A.47.560 for school building construction is found by the state board of education to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.47.530, an additional allotment may be made to such district: *Provided*, That the total amount allotted shall not exceed ninety percent of the total cost of the project which may include the cost of the site and equipment. At any time thereafter when the state board of education finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements or for any of these reasons, the amount of such additional allotment, or any part of such amount as the state board of education determines, shall be deducted, under terms and conditions prescribed by the board, from any state school building construction funds which might otherwise be provided to such district. [1969 ex.s. c 223 § 28A.47.540. Prior: 1957 c 234 § 9. Formerly RCW 28.47.540.]

28A.47.560 1957 bond issue for construction of school plant facilities—Modifiable basic or standard plans for school buildings—Rules and regulations. Whenever in the judgment of the state board of education economies may be effected without impairing the usefulness and adequacy of school buildings, said board may prescribe rules and regulations and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW 28A.47.460 through 28A.47.560 are allocated. [1969 ex.s. c 223 § 28A.47.560. Prior: 1957 c 234 § 11. Formerly RCW 28.47.560.]

28A.47.570 1959 bond issue for construction of school plant facilities—Authorized—Form, term, etc.—Continuation of levy. For the purpose of furnishing funds for state assistance in providing public school plant facilities, there shall be issued and sold, at any time prior to April 1, 1963, limited obligation bonds of the state of Washington in the sum of thirty-four

million dollars to be paid and discharged not more than twenty years after the date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner and from the proceeds of cigarette taxes as in RCW 28A.47.570 through 28A.47.710 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1969 ex.s. c 223 § 28A.47.570. Prior: 1959 ex.s. c 8 § 1. Formerly RCW 28.47.570.]

28A.47.580 1959 bond issue for construction of school plant facilities—Proceeds from bond sale—Deposit—Use. The proceeds from the sale of the bonds authorized herein shall be deposited in the public school building account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.47.570 through 28A.47.710, and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1969 ex.s. c 223 § 28A.47.580. Prior: 1959 ex.s. c 8 § 2. Formerly RCW 28.47.580.]

28A.47.590 1959 bond issue for construction of school plant facilities—Public school building bond redemption fund of 1959—Payment from cigarette tax. The public school building bond redemption fund of 1959 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.47.570 through 28A.47.710. 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 interest payments on and retirement of bonds authorized by RCW 28A.47.570 through 28A.47.710. The state treasurer shall thereupon deposit such amount in the public school building bond redemption fund of 1959 from the receipts from the taxes on cigarettes imposed by RCW 82.24.020, 73.32.130, and 28A.47.440. The amount certified to the state treasurer by the state finance committee as aforesaid shall be a first and prior charge, subject only to amounts previously

pledged for the payment of interest on and retirement of bonds heretofore issued, against all cigarette tax revenues. [1969 ex.s. c 223 § 28A.47.590. Prior: 1959 ex.s. c 8 § 3. Formerly RCW 28.47.590.]

28A.47.600 1959 bond issue for construction of school plant facilities—Legislature may provide additional means of revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 28A.47.570 through 28A.47.710 and RCW 28A.47.570 through 28A.47.710 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28A.47.600. Prior: 1959 ex.s. c 8 § 4. Formerly RCW 28.47.600.]

28A.47.610 1959 bond issue for construction of school plant facilities—Bonds are negotiable, legal investment and security. The bonds authorized in RCW 28A.47.570 through 28A.47.710 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1969 ex.s. c 223 § 28A.47.610. Prior: 1959 ex.s. c 8 § 5. Formerly RCW 28.47.610.]

28A.47.620 1959 bond issue for construction of school plant facilities—Appropriation from public school building construction account—Purposes—Local responsibility—Rules and regulations. For the purpose of carrying out the provisions of RCW 28A.47.570 through 28A.47.710 there is hereby appropriated to the state board of education from the public school building construction account of the general fund the sum of thirty-four million dollars or so much thereof as may be necessary: *Provided*, That no part of the aforesaid thirty-four million dollars shall be allotted to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation plus such further amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1969 ex.s. c 223 § 28A.47.620. Prior: 1959 ex.s. c 8 § 6. Formerly RCW 28.47.620.]

28A.47.630 1959 bond issue for construction of school plant facilities—Duties of state board of education. In allotting the state funds provided by RCW 28A.47.570 through 28A.47.710, the state board of education shall:

(1) Prescribe rules and regulations governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board. [1969 ex.s. c 223 § 28A.47.630. Prior: 1959 ex.s. c 8 § 7. Formerly RCW 28.47.630.]

28A.47.640 1959 bond issue for construction of school plant facilities—Basis of state aid for school plants. Allocations to school districts of state funds provided by RCW 28A.47.570 through 28A.47.710 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 board of directors of the district 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 architect's 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 board of education shall compute the ratio of the assessed valuation of the district, adjusted in accordance with the ratio of assessed valuation to actual valuation fixed by the state board of equalization for the county to which the district belongs, to the maximum number of educational units theretofore allowable to the district under state board of education regulations governing apportionment of funds receivable under the provisions of RCW 28A.47.570 through 28A.47.710: *Provided*, That this number of units may be increased by the state board of education for the use thereof specified in RCW 28A.47.570 through 28A.47.710, upon the finding of said board that completion of the proposed project will provide facilities for additional units and that such additional units will be needed to serve the school population of the district.

(3) The ratio of the adjusted valuation of the district to the number of educational units thereof, computed in the manner hereinabove in this section provided for, shall then be used in determining the percentage of state assistance for the district in accordance with the following table:

Ratio of adjusted valuation to number of educational units	Percentage of state assistance
\$ 10,520 or less to 1	90.0%
15,000 to 1	86.0
20,000 to 1	81.8
25,000 to 1	77.7
28,570 to 1	75.0
30,000 to 1	73.9
35,000 to 1	70.2
40,000 to 1	66.7
45,000 to 1	63.3
50,000 to 1	60.0
55,000 to 1	56.9
60,000 to 1	53.8
65,000 to 1	50.9
70,000 to 1	48.1
75,000 to 1	45.5
80,000 to 1	42.9
85,000 to 1	40.4
90,000 to 1	37.9
95,000 to 1	35.6
100,000 to 1	33.3
105,000 to 1	31.1
110,000 to 1	29.0
115,000 to 1	27.0
120,000 to 1	25.0
130,000 to 1	21.2
140,000 to 1	17.6
150,000 to 1	14.3
160,000 to 1	11.1
170,000 to 1	8.1
180,000 to 1	5.3
190,000 to 1	2.6
200,000 to 1

: *Provided*, That in the event the percentage of state assistance to any school district based on the above table is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.47.570 through 28A.47.710, 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.

(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 and excessive past or 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, 1959, 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) conditions similar to those defined under (a), (b), and (c) hereinabove, creating a like emergency. [1969 ex.s. c 223 § 28A.47.640. Prior: 1959 ex.s. c 8 § 8. Formerly RCW 28.47.640.]

28A.47.650 1959 bond issue for construction of school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility for allotment. Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW 28A.47.620 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percentage of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the state board of education in which case the percentage prevailing on the date of allotment by the state board of funds for each project shall govern: *Provided*, That if the state board of education determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment is made shall be used for the purposes aforesaid: *Provided further*, That the date herein specified as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter 28A.56 RCW to determine eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit. [1969 ex.s. c 223 § 28A.47.650. Prior: 1959 ex.s. c 8 § 9. Formerly RCW 28.47.650.]

28A.47.660 1959 bond issue for construction of school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district. If a school district which has qualified for an allotment of state funds under the provisions of RCW 28A.47.570 through 28A.47.710 for school building construction is found by the state board of education to

have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.47.640, an additional allotment may be made to such district: *Provided*, That the total amount allotted shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the state board of education finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such additional allotment, or any part of such amount as the state board of education determines, shall be deducted, under terms and conditions prescribed by the board, from any state school building construction funds which might otherwise be provided to such district. [1969 ex.s. c 223 § 28A.47.660. Prior: 1959 ex.s. c 8 § 10. Formerly RCW 28.47.660.]

28A.47.680 1959 bond issue for construction of school plant facilities—Application by district for state assistance—Rules and regulations—Studies and surveys by state board. All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the state board for the purpose of securing information relating to (a) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (b) the ability of such districts to provide capital funds by local effort, (c) the need for improvement of school administrative units and school attendance areas among or within such district, and (d) any other pertinent matters. [1969 ex.s. c 223 § 28A.47.680. Prior: 1959 ex.s. c 8 § 12. Formerly RCW 28.47.680.]

28A.47.690 1959 bond issue for construction of school plant facilities—Manual, other materials to guide and provide information to district. It shall be the duty of the state board of education, in consultation with the Washington *state department of health, to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding (a) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.47.570 through 28A.47.710; (b) procedures in inaugurating and conducting a school plant planning program for a school district; (c) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (d) the

planning of readily expandable and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (e) an acceptable school building maintenance program and the necessity therefor; (f) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (g) any other matters regarded by the state board as pertinent or related to the purposes and requirements of RCW 28A.47.570 through 28A.47.710. [1969 ex.s. c 223 § 28A.47.690. Prior: 1959 ex.s. c 8 § 13. Formerly RCW 28.47.690.]

***Reviser's note:** "state department of health" abolished; powers and duties transferred to department of social and health services by 1970 ex.s. c 18. See chapter 43.20A RCW.

28A.47.700 1959 bond issue for construction of school plant facilities—State board to provide district with consultatory, advisory service. The state board of education shall furnish to school districts seeking state assistance under the provisions of RCW 28A.47.570 through 28A.47.710 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities. [1969 ex.s. c 223 § 28A.47.700. Prior: 1959 ex.s. c 8 § 14. Formerly RCW 28.47.700.]

28A.47.710 1959 bond issue for construction of school plant facilities—Modifiable basic or standard plans for school buildings—Rules and regulations. Whenever in the judgment of the state board of education economies may be effected without impairing the usefulness and adequacy of school buildings, said board may prescribe rules and regulations and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW 28A.47.570 through 28A.47.710 are allotted. [1969 ex.s. c 223 § 28A.47.710. Prior: 1959 ex.s. c 8 § 15. Formerly RCW 28.47.710.]

28A.47.720 1961 bond issue for construction of school plant facilities—Authorized—Form, term, etc.—Continuation of levy. For the purpose of furnishing funds for state assistance in providing public school plant facilities, there shall be issued and sold, at any time prior to April 1, 1965, limited obligation bonds of the state of Washington in the sum of fifty million seven hundred and fifty thousand dollars to be paid and discharged not more than twenty years after the date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds; and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington,

but shall be payable in the manner and from the proceeds of retail sales taxes as in RCW 28A.47.720 through 28A.47.750 provided. As a part of the contract of sale of the aforesaid bonds, the state undertakes to continue to levy the taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient funds to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. The state finance committee shall, in making its invitation or call for bids on the sale or issuance of such bonds, secure bids on the condition that the bonds may be called prior to maturity and it shall also secure bids on the condition that they shall not be subject to prior call. [1969 ex.s. c 223 § 28A.47.720. Prior: 1961 ex.s. c 3 § 1. Formerly RCW 28.47.720.]

28A.47.722 1961 bond issue for construction of school plant facilities—Proceeds from bond sale—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 28A.47.720 through 28A.47.750 shall be deposited in the public school building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.47.720 through 28A.47.750, and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1969 ex.s. c 223 § 28A.47.722. Prior: 1961 ex.s. c 3 § 2. Formerly RCW 28.47.722.]

28A.47.724 1961 bond issue for construction of school plant facilities—Public school building bond redemption fund of 1961—Payment from and prior charge on retail sales tax. The public school building bond redemption fund of 1961 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.47.720 through 28A.47.750. The state finance committee shall, on or before June thirtieth of each year certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 28A.47.720 through 28A.47.750. The state treasurer shall thereupon deposit such amount in the public school building bond redemption fund of 1961 from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections, and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, subject to and inferior only to amounts previously pledged for the payment of interest on and retirement of bonds heretofore issued. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains

unpaid, be available solely for the payment thereof. [1969 ex.s. c 223 § 28A.47.724. Prior: 1961 ex.s. c 3 § 3. Formerly RCW 28.47.724.]

28A.47.726 1961 bond issue for construction of school plant facilities—Legislature may provide additional means of revenue—General credit of state not pledged. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 28A.47.720 through 28A.47.750 and RCW 28A.47.720 through 28A.47.750 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28A.47.726. Prior: 1961 ex.s. c 3 § 4. Formerly RCW 28.47.726.]

28A.47.728 1961 bond issue for construction of school plant facilities—Bonds are negotiable, legal investment and security. The bonds authorized in RCW 28A.47.720 through 28A.47.750 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county, and municipal deposits. [1969 ex.s. c 223 § 28A.47.728. Prior: 1961 ex.s. c 3 § 5. Formerly RCW 28.47.728.]

28A.47.730 1961 bond issue for construction of school plant facilities—Appropriation from public school building construction account—Purposes—Local responsibility—Rules and regulations. For the purpose of carrying out the provisions of RCW 28A.47.720 through 28A.47.750 there is hereby appropriated to the state board of education from the public school building construction account of the general fund the sum of fifty million seven hundred and fifty thousand dollars or so much thereof as may be necessary: *Provided*, That no part of the aforesaid fifty million seven hundred and fifty thousand dollars shall be allotted to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation plus such further amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1969 ex.s. c 223 § 28A.47.730. Prior: 1961 ex.s. c 3 § 6. Formerly RCW 28.47.730.]

28A.47.732 1961 bond issue for construction of school plant facilities—Duties of state board of education. In allotting the state funds provided by RCW 28A.47.720 through 28A.47.750, the state board of education shall:

(1) Prescribe rules and regulations governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board. [1969 ex.s. c 223 § 28A.47.732. Prior: 1961 ex.s. c 3 § 7. Formerly RCW 28.47.732.]

28A.47.734 1961 bond issue for construction of school plant facilities—Basis of state aid for school plants. Allocations to school districts of state funds provided by RCW 28A.47.720 through 28A.47.750 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 board of directors of the district 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 architect's 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 board of education shall compute the ratio of the assessed valuation of the district, adjusted in accordance with the ratio of assessed valuation to actual valuation fixed by the state board of equalization for the county to which the district belongs, to the maximum number of educational units theretofore allowable to the district under state board of education regulations governing apportionment of funds receivable under the provisions of RCW 28A.47.720 through 28A.47.750: *Provided*, That this number of units may be increased by the state board of education for the use thereof specified in RCW 28A.47.720 through 28A.47.750, upon the finding of said board that completion of the proposed project will provide facilities for additional units and that such additional units will be needed to serve the school population of the district.

(3) The ratio of the adjusted valuation of the district to the number of educational units thereof, computed in the manner hereinabove in this section provided for, shall then be used in determining the percentage of state assistance for the district in accordance with the following table:

Ratio of adjusted valuation to number of educational units	Percentage of state assistance
\$ 10,520 or less to 1	90.0%
15,000 to 1	86.0
20,000 to 1	81.8
25,000 to 1	77.7
28,570 to 1	75.0
30,000 to 1	73.9
35,000 to 1	70.2
40,000 to 1	66.7
45,000 to 1	63.3
50,000 to 1	60.0
55,000 to 1	56.9
60,000 to 1	53.8
65,000 to 1	50.9
70,000 to 1	48.1
75,000 to 1	45.5
80,000 to 1	42.9
85,000 to 1	40.4
90,000 to 1	37.9
95,000 to 1	35.6
100,000 to 1	33.3
105,000 to 1	31.1
110,000 to 1	29.0
115,000 to 1	27.0
120,000 to 1	25.0
130,000 to 1	21.2
140,000 to 1	17.6
150,000 to 1	14.3
160,000 to 1	11.1
170,000 to 1	8.1
180,000 to 1	5.3
190,000 to 1	2.6
200,000 to 1	...

: *Provided*, That in the event the percentage of state assistance to any school district based on the above table is less than twenty percent and such school district is otherwise eligible for state assistance under RCW 28A.47.720 through 28A.47.750, 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.

(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 and excessive past or 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, 1961, 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) conditions similar to those defined under (a), (b), and (c) hereinafore, creating a like emergency. [1969 ex.s. c 223 § 28A.47.734. Prior: 1961 ex.s. c 3 § 8. Formerly RCW 28.47.734.]

28A.47.736 1961 bond issue for construction of school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility for allotment. Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW 28A.47.730 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percentage of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the state board of education in which case the percentage prevailing on the date of allotment by the state board of funds for each project shall govern: *Provided*, That if the state board of education determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment is made shall be used for the purposes aforesaid: *Provided further*, That the date herein specified as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter 28A.56 RCW to determine the eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit. [1969 ex.s. c 223 § 28A.47.736. Prior: 1961 ex.s. c 3 § 9. Formerly RCW 28.47.736.]

28A.47.738 1961 bond issue for construction of school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district. If a school district which has qualified for an allotment of state funds under the provisions of RCW 28A.47.720 through 28A.47.750 for school building construction is found by the state board of education to

have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.47.734, an additional allotment may be made to such district: *Provided*, That the total amount allotted shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the state board of education finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such additional allotment, or any part of such amount as the state board of education determines, shall be deducted, under terms and conditions prescribed by the board, from any state school building construction funds which might otherwise be provided to such district. [1969 ex.s. c 223 § 28A.47.738. Prior: 1961 ex.s. c 3 § 10. Formerly RCW 28.47.738.]

28A.47.742 1961 bond issue for construction of school plant facilities—Application by district for state assistance—Rules and regulations—Studies and surveys by state board. All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the state board for the purpose of securing information relating to (a) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (b) the ability of such districts to provide capital funds by local effort, (c) the need for improvement of school administrative units and school attendance areas among or within such districts, and (d) any other pertinent matters. [1969 ex.s. c 223 § 28A.47.742. Prior: 1961 ex.s. c 3 § 12. Formerly RCW 28.47.742.]

28A.47.744 1961 bond issue for construction of school plant facilities—Manual, other materials to guide and provide information to district. It shall be the duty of the state board of education, in consultation with the Washington *state department of health, to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding (a) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.47.720 through 28A.47.750; (b) procedures in inaugurating and conducting a school plant planning program for a school district; (c) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (d) the

planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (e) an acceptable school building maintenance program and the necessity therefor; (f) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (g) any other matters regarded by the state board as pertinent or related to the purposes and requirements of RCW 28A.47.720 through 28A.47.750. [1969 ex.s. c 223 § 28A.47.744. Prior: 1961 ex.s. c 3 § 13. Formerly RCW 28.47.744.]

*Reviser's note: "state department of health" abolished; powers and duties transferred to department of social and health services by 1970 ex.s. c 18. See chapter 43.20A RCW.

28A.47.746 1961 bond issue for construction of school plant facilities—State board to provide district with consultatory, advisory service. The state board of education shall furnish to school districts seeking state assistance under the provisions of RCW 28A.47.720 through 28A.47.750 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities. [1969 ex.s. c 223 § 28A.47.746. Prior: 1961 ex.s. c 3 § 14. Formerly RCW 28.47.746.]

28A.47.748 1961 bond issue for construction of school plant facilities—Modifiable basic or standard plans for school buildings—Rules and regulations. Whenever in the judgment of the state board of education economies may be effected without impairing the usefulness and adequacy of school buildings, said board may prescribe rules and regulations and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW 28A.47.720 through 28A.47.750 are allotted. [1969 ex.s. c 223 § 28A.47.748. Prior: 1961 ex.s. c 3 § 15. Formerly RCW 28.47.748.]

28A.47.750 1961 bond issue for construction of school plant facilities—Reduction of bond issue, proceeds by amount available from federal funds. The total amount of bonds authorized for issue under the provisions of RCW 28A.47.720 through 28A.47.750 shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. In the event the entire bond issue authorized shall have been sold by the state finance committee, the proceeds in the public school building construction account available for allotment by the state board of education shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of bonds authorized for issue under RCW 28A.47.720 through 28A.47.750 and/or the total proceeds from the sale thereof shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law No. 815 or any other federal act authorizing school building construction assistance to federally affected areas. [1969 ex.s. c 223 §

28A.47.750. Prior: 1961 ex.s. c 3 § 16. Formerly RCW 28.47.750.]

28A.47.760 1963 bond issue for construction of school plant facilities—Authorized—Form, terms, etc.—Continuation of levy. For the purpose of furnishing funds for state assistance in providing public school plant facilities, there shall be issued and sold, at any time prior to April 1, 1967, limited obligation bonds of the state of Washington in the sum of fifty-nine million dollars to be paid and discharged not more than twenty years after the date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof. Such bonds shall state distinctly that they shall not be a general obligation of the state of Washington, but shall be payable in the manner prescribed in RCW 28A.47.760 through 28A.47.774 from the proceeds of motor vehicle excise taxes as imposed by chapter 82.44 RCW. As part of the contract of sale of the aforesaid bonds, the state agrees to continue to levy the motor vehicle excise taxes referred to herein and to fix and maintain said taxes in such amounts as will provide sufficient proceeds thereof available to pay said bonds and interest thereon until all such obligations have been paid in full.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1969 ex.s. c 223 § 28A.47.760. Prior: 1963 ex.s. c 26 § 1. Formerly RCW 28.47.760.]

28A.47.762 1963 bond issue for construction of school plant facilities—Proceeds from bond sale—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 28A.47.760 through 28A.47.774 shall be deposited in the public school building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.47.760 through 28A.47.774, and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1969 ex.s. c 223 § 28A.47.762. Prior: 1963 ex.s. c 26 § 2. Formerly RCW 28.47.762.]

28A.47.764 1963 bond issue for construction of school plant facilities—Public school building bond redemption fund of 1963—Payment from and prior charge on motor vehicle excise tax. The public school building bond redemption fund of 1963 is hereby created in the state treasury which fund shall be exclusively

devoted to the retirement of the bonds and interest authorized by RCW 28A.47.760 through 28A.47.774. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 28A.47.760 through 28A.47.774. The state treasurer shall thereupon deposit such amount in the public school building bond redemption fund of 1963 from that portion of the motor vehicle excise tax allocable to the state school equalization fund under chapter 82.44 RCW. The amount so deposited in the aforesaid fund shall be devoted exclusively to payment of interest on and to retirement of the bonds authorized by RCW 28A.47.760 through 28A.47.774. Such amount certified by the state finance committee to the state treasurer shall be a first and prior charge, subject only to amounts previously pledged for the payment of interest on and the retirement of bonds heretofore issued, against all motor vehicle excise tax revenues of the state allocable to the state school equalization fund, which amounts so allocable shall never be less than seventy percent of said excise tax revenues. Said bond redemption fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or interest thereon remains unpaid, be available solely for the payment thereof. [1969 ex.s. c 223 § 28A.47.764. Prior: 1963 ex.s. c 26 § 3. Formerly RCW 28.47.764.]

Distribution of motor vehicle excise fund generally: RCW 82.44.150.

28A.47.766 1963 bond issue for construction of school plant facilities—Legislature may provide additional means of revenue—General credit of state not pledged. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 28A.47.760 through 28A.47.774 and RCW 28A.47.760 through 28A.47.774 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28A.47.766. Prior: 1963 ex.s. c 26 § 4. Formerly RCW 28.47.766.]

28A.47.768 1963 bond issue for construction of school plant facilities—Bonds are negotiable, legal investment and security. The bonds authorized in RCW 28A.47.760 through 28A.47.774 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1969 ex.s. c 223 § 28A.47.768. Prior: 1963 ex.s. c 26 § 5. Formerly RCW 28.47.768.]

28A.47.770 1963 bond issue for construction of school plant facilities—Allotment of funds appropriated from public school building construction account—Duties, rules and regulations, of state board of education. For the purpose of carrying out the provisions of RCW 28A.47.760 through 28A.47.774 funds appropriated to the state board of education from the

public school building construction account of the general fund shall be allotted by the state board of education in accordance with the provisions of RCW 28A.47.732 through 28A.47.748: *Provided*, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation plus such further amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1969 ex.s. c 223 § 28A.47.770. Prior: 1963 ex.s. c 26 § 6. Formerly RCW 28.47.770.]

28A.47.772 1963 bond issue for construction of school plant facilities—Reduction of bond issue, proceeds by amount available from federal funds. The total amount of bonds authorized for issue under the provisions of RCW 28A.47.760 through 28A.47.774 shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. In the event the entire bond issue authorized shall have been sold by the state finance committee, the proceeds in the public school building construction account available for allotment by the state board of education shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of bonds authorized for issue under RCW 28A.47.760 through 28A.47.774 and/or the total proceeds from the sale thereof shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law 815 or any other federal act authorizing school building construction assistance to federally affected areas. [1969 ex.s. c 223 § 28A.47.772. Prior: 1963 ex.s. c 26 § 7. Formerly RCW 28.47.772.]

28A.47.774 1963 bond issue for construction of school plant facilities—Submission of proposition as to issuance of bonds to the people—Alternative method in event issuance of bonds declared invalid or bonds not sold. In order to provide an alternative method for furnishing funds for state assistance in providing public school plant facilities, in the event the issuance of bonds by the state finance committee pursuant to the authority given it by RCW 28A.47.760 through 28A.47.772 is held by the supreme court of the state of Washington to be invalid for the sole reason that the proposition to issue such bonds must have been referred to the people under the provisions of section 3 of Article VIII of the state Constitution or in the event none of the bonds heretofore authorized for issue by RCW 28A.47.760 through 28A.47.772 are sold by the state finance committee on or before July 1, 1964, then a proposition as to whether or not fifty-nine million dollars in bonds shall be issued and sold under the terms and conditions as set forth in RCW 28A.47.760 through 28A.47.772 shall be

submitted to the people for their adoption and ratification, or rejection, at the next general election. [1969 ex.s. c 223 § 28A.47.774. Prior: 1963 ex.s. c 26 § 8. Formerly RCW 28.47.774.]

Reviser's note: 1963 ex.s. c 26 was submitted to the people as Referendum Bill No. 12 and ratified on November 3, 1964.

28A.47.775 1965 bond issue for construction of school plant facilities—Authorized—Form, terms, etc. For the purpose of furnishing funds for state assistance in providing public school plant facilities, there shall be issued and sold, at any time prior to April 1, 1970, general obligation bonds of the state of Washington in the sum of sixteen million five hundred thousand dollars to be paid and discharged not more than twenty years after the date of issuance. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance, and redemption thereof. None of the bonds herein authorized shall be sold for less than the par value thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1969 ex.s. c 223 § 28A.47.775. Prior: 1965 ex.s. c 158 § 1. Formerly RCW 28.47.775.]

28A.47.776 1965 bond issue for construction of school plant facilities—Proceeds from bond sale—Deposit—Use. The proceeds from the sale of the bonds authorized in RCW 28A.47.775 through 28A.47.783 shall be deposited in the public school building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.47.775 through 28A.47.783, and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1969 ex.s. c 223 § 28A.47.776. Prior: 1965 ex.s. c 158 § 2. Formerly RCW 28.47.776.]

28A.47.777 1965 bond issue for construction of school plant facilities—Public school building bond redemption fund of 1965—Created—Transfer and payment of funds—Prior charge against sales tax revenues. The public school building bond redemption fund of 1965 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.47.775 through 28A.47.783. The state finance committee shall, on or before June thirtieth of each year, certify to the

state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW 28A.47.775 through 28A.47.783. On July 1st of each year the state treasurer shall deposit such amount in the public school building bond redemption fund of 1965 from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1969 ex.s. c 223 § 28A.47.777. Prior: 1965 ex.s. c 158 § 3. Formerly RCW 28.47.777.]

28A.47.778 1965 bond issue for construction of school plant facilities—Legislature may provide additional means of revenue. The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW 28A.47.775 through 28A.47.783 and RCW 28A.47.775 through 28A.47.783 shall not be deemed to provide an exclusive method for such payment. [1969 ex.s. c 223 § 28A.47.778. Prior: 1965 ex.s. c 158 § 4. Formerly RCW 28.47.778.]

28A.47.779 1965 bond issue for construction of school plant facilities—Bonds are negotiable, legal investment and security. The bonds authorized in RCW 28A.47.775 through 28A.47.783 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1969 ex.s. c 223 § 28A.47.779. Prior: 1965 ex.s. c 158 § 5. Formerly RCW 28.47.779.]

28A.47.780 1965 bond issue for construction of school plant facilities—Allotment of funds appropriated from public school building construction account—Local responsibility—Duties, rules and regulations, of state board of education. For the purpose of carrying out the provisions of RCW 28A.47.775 through 28A.47.783 funds appropriated to the state board of education from the public school building construction account of the general fund shall be allotted by the state board of education in accordance with the provisions of RCW 28A.47.732 through 28A.47.748: *Provided*, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate

insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1969 ex.s. c 223 § 28A.47.780. Prior: 1965 ex.s. c 158 § 6. Formerly RCW 28.47.780.]

28A.47.781 1965 bond issue for construction of school plant facilities—Appropriations from proceeds of bonds. The following sums, or so much thereof as may be necessary, are hereby appropriated from the public school building construction account of the general fund, from the proceeds of the bonds herein authorized, to carry out the purposes of RCW 28A.47.775 through 28A.47.783: To the state finance committee, sixteen thousand five hundred dollars; to the state board of education, sixteen million four hundred eighty-three thousand five hundred dollars. [1969 ex.s. c 223 § 28A.47.781. Prior: 1965 ex.s. c 158 § 7. Formerly RCW 28.47.781.]

28A.47.782 1965 bond issue for construction of school plant facilities—Allocation of funds—Authorized—Conditions. In accordance with the provisions of RCW 28A.47.780, the state board of education is authorized to allocate the sum of \$27,753,500 (being (1) \$16,483,500 from the public school building construction account including \$7,403,500 for new community colleges authorized by the 1965 legislature, and (2) \$11,270,000 from the common school construction fund): *Provided*, That such allocations shall not be binding upon the state in the event that either chapter 158, Laws of 1965 extraordinary session [RCW 28A.47.775 through 28A.47.783] or Senate Joint Resolution No. 22, 1965 extraordinary session, is rejected by the people: *Provided further*, That expenditures against such allocations shall not exceed the amounts appropriated in chapter 158, Laws of 1965 extraordinary session [RCW 28A.47.775 through 28A.47.783] and in chapter 153, Laws of 1965 extraordinary session (ESSB 42) during the 1965–1967 fiscal biennium, or the amounts then currently appropriated for these purposes by future legislatures. [1969 ex.s. c 223 § 28A.47.782. Prior: 1965 ex.s. c 158 § 8. Formerly RCW 28.47.782.]

Reviser's note: Senate Joint Resolution No. 22 amending State Constitution Art. 9 § 3 and Art. 16 § 5, was submitted to the people and approved November 8, 1966 as Amendments 43 and 44.

28A.47.783 1965 bond issue for construction of school plant facilities—Referral to electorate. Chapter 158, Laws of 1965 extraordinary session [RCW 28A.47.775 through 28A.47.783] shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1966, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof. [1969 ex.s. c 223 § 28A.47.783. Prior: 1965 ex.s. c 158 § 9. Formerly RCW 28.47.783.]

Reviser's note: 1965 ex.s. c 158 was submitted to the people as Referendum Bill No. 14 and ratified on November 8, 1966.

28A.47.784 1967 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms, etc. For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of twenty-two million dollars to be paid and discharged in accordance with terms to be established by the finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: *Provided*, That no part of the twenty-two million dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW 28A.47.784 through 28A.47.791 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW 28A.47.784 through 28A.47.791 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW 28A.47.784 through 28A.47.791 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may

determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1970 ex.s. c 15 § 26; 1969 c 77 § 4; 1969 ex.s. c 223 § 28A.47.784. Prior: 1967 ex.s. c 56 § 1. Like section formerly RCW 28.47.784.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

28A.47.785 1967 bond issue for construction, modernization of school plant facilities—Common school building construction account—Created—Proceeds from bond sale deposited in—Use. The common school building construction account of the general fund is hereby created as an account of the general fund and the proceeds from the sale of the bonds authorized by RCW 28A.47.784 through 28A.47.791 shall be deposited therein and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.47.784 through 28A.47.791, and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1969 ex.s. c 223 § 28A.47.785. Prior: 1967 ex.s. c 56 § 2. Formerly RCW 28.47.785.]

28A.47.786 1967 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source for payment of—Pledge. Bonds issued under the provisions of RCW 28A.47.784 through 28A.47.791 shall distinctly state that they are not a general obligation bond of the state, but are payable in the manner provided in RCW 28A.47.784 through 28A.47.791 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 28A.47.784 through 28A.47.791. [1969 ex.s. c 223 § 28A.47.786. Prior: 1967 ex.s. c 56 § 3. Formerly RCW 28.47.786.]

Common school construction fund: RCW 28A.40.100.

Common school fund: Chapter 28A.40 RCW.

28A.47.787 1967 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Created—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys. The common school building bond redemption fund of 1967 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.47.784 through 28A.47.791 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967.

On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1969 c 77 § 5; 1969 ex.s. c 223 § 28A.47.787. Prior: 1967 ex.s. c 56 § 4. Like section formerly RCW 28.47.787.]

28A.47.788 1967 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue—General credit of state not pledged. The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW 28A.47.784 through 28A.47.791 from any source or sources not prohibited by the state Constitution and RCW 28A.47.784 through 28A.47.791 shall not be deemed to provide an exclusive method of payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of general credit of the state of Washington. [1969 c 77 § 6; 1969 ex.s. c 223 § 28A.47.788. Prior: 1967 ex.s. c 56 § 5. Like section formerly RCW 28.47.788.]

28A.47.789 1967 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security. The bonds authorized in RCW 28A.47.784 through 28A.47.791 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1969 ex.s. c 223 § 28A.47.789. Prior: 1967 ex.s. c 56 § 6. Formerly RCW 28.47.789.]

28A.47.790 1967 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account or common school construction fund—Local responsibility—Duties, rules and regulations of state board of education. For the purpose of carrying out the provisions of RCW 28A.47.784 through 28A.47.791 funds appropriated to the state board of education from the common school building construction account of the general fund or the common school construction fund shall be allotted by the state board of education in accordance with the provisions of RCW 28A.47.732 through 28A.47.748: *Provided*, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of

its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1969 ex.s. c 223 § 28A.47.790. Prior: 1967 ex.s. c 56 § 7. Formerly RCW 28.47.790.]

28A.47.791 1967 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations. There is hereby appropriated to the state board of education the following sums, or so much thereof as may be necessary, for the purpose of carrying out the provisions of RCW 28A.47.784 through 28A.47.791: (1) Twenty-two million dollars from the common school building construction account and (2) twenty-nine million seven hundred forty-four thousand five hundred and fifty-four dollars from the common school construction fund including three million for modernization of existing school facilities.

In accordance with RCW 28A.47.790, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.47.784 through 28A.47.791 the sum of sixty-three million nine hundred thousand dollars: *Provided*, That expenditures against such allocation shall not exceed the amount appropriated in this section: *Provided further*, That no part of the allocation provided in this section in excess of the total amount appropriated by RCW 28A.47.784 through 28A.47.791 shall be allocated unless joint agreement of its necessity shall be determined by the governor and the superintendent of public instruction. [1969 ex.s. c 223 § 28A.47.791. Prior: 1967 ex.s. c 56 § 8. Formerly RCW 28.47.791.]

28A.47.792 1969 bond issue for construction, modernization of school plant facilities—Authorized—Sale, conditions—Form, terms. For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold general obligation bonds of the state of Washington in the sum of twenty-six million four hundred thousand dollars to be paid and discharged in accordance with terms to be established by the state finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: *Provided*, That no part of the twenty-six million four hundred thousand dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW 28A.47.792 through 28A.47.799 as now or hereafter amended as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds

may include but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW 28A.47.784 through 28A.47.791, as amended, and in RCW 28A.47.792 through 28A.47.799 as now or hereafter amended upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW 28A.47.792 through 28A.47.799 as now or hereafter amended and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide. [1974 ex.s. c 108 § 1; 1971 ex.s. c 4 § 1; 1969 c 13 § 1. Formerly RCW 28.47.792.]

Severability—1969 c 13: "If any section, paragraph, sentence, clause, phrase or word of this 1969 act shall be held to be invalid or unconstitutional, such 1969 act shall not affect nor impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this 1969 act. It is hereby declared that had any section, paragraph, sentence, clause, phrase or word as to which this 1969 act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1969 c 13 § 9.] This refers to RCW 28A.47.792 through 28A.47.799.

28A.47.793 1969 bond issue for construction, modernization of school plant facilities—Proceeds from bond sale deposited in common school building construction account—Use. The proceeds from the sale of the bonds authorized herein shall be deposited in the common school building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of RCW 28A.47.742 through

28A.47.749, and for payment of the expense incurred in the printing, issuance and sale of such bonds. [1969 c 13 § 2. Formerly RCW 28.47.793.]

Severability—1969 c 13: See note following RCW 28A.47.792.

28A.47.794 1969 bond issue for construction, modernization of school plant facilities—Bonds not general obligation of state—Bonds, interest on, source of payment of—Pledge. Bonds issued under the provisions of RCW 28A.47.792 through 28A.47.799 shall distinctly state that they are a general obligation bond of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on such bonds shall be first payable in the manner provided in RCW 28A.47.792 through 28A.47.799 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW 28A.47.792 through 28A.47.799. [1974 ex.s. c 108 § 2; 1969 c 13 § 3. Formerly RCW 28.47.794.]

Severability—1969 c 13: See note following RCW 28A.47.792.

28A.47.795 1969 bond issue for construction, modernization of school plant facilities—Common school building bond redemption fund of 1967—Use—Transfer of funds to—Prior charge against certain common school construction fund moneys. The common school building bond redemption fund of 1967 has been created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW 28A.47.784 through RCW 28A.47.791, as amended, and by RCW 28A.47.792 through 28A.47.799 as now or hereafter amended and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1971 ex.s. c 4 § 2; 1969 c 13 § 4. Formerly RCW 28.47.795.]

Severability—1969 c 13: See note following RCW 28A.47.792.

28A.47.796 1969 bond issue for construction, modernization of school plant facilities—Legislature may provide additional means of revenue. The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW 28A.47.792 through 28A.47.799 as now or hereafter amended from any source or sources not prohibited by the state Constitution and RCW 28A.47.792 through 28A.47.799 as now or hereafter amended shall not be deemed to provide an exclusive method of payment. [1974 ex.s. c 108 § 3; 1971 ex.s. c 4 § 3; 1969 c 13 § 5. Formerly RCW 28.47.796.]

Severability—1969 c 13: See note following RCW 28A.47.792.

28A.47.797 1969 bond issue for construction, modernization of school plant facilities—Bonds are negotiable, legal investment and security. The bonds herein authorized shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits. [1969 c 13 § 6. Formerly RCW 28.47.797.]

Severability—1969 c 13: See note following RCW 28A.47.792.

28A.47.798 1969 bond issue for construction, modernization of school plant facilities—Allotment of funds appropriated from common school building construction account—Local responsibility—Duties of state board of education. For the purpose of carrying out the provisions of RCW 28A.47.792 through 28A.47.799 funds appropriated to the state board of education from the common school building construction account of the general fund shall be allotted by the state board of education in accordance with the provisions of RCW 28A.47.732 through 28A.47.748: *Provided*, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1969 c 13 § 7. Formerly RCW 28.47.798.]

Severability—1969 c 13: See note following RCW 28A.47.792.

28A.47.799 1969 bond issue for construction, modernization of school plant facilities—Appropriations to state board of education—Allocation of, limitations. There is hereby appropriated to the state board of education the following sums or so much thereof as may be necessary for the purpose of carrying out the provisions of RCW 28A.47.792 through 28A.47.799: Twenty-six million four hundred thousand dollars from the common school building construction account of the general fund

and five million seven hundred and fifty-five thousand four hundred and forty-six dollars from the common school construction fund.

In accordance with RCW 28A.47.798, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.47.792 through 28A.47.799 the entire amount of such appropriation as hereinabove in this section provided which is not already allocated for that purpose: *Provided*, That expenditures against such allocation shall not exceed the amount appropriated in this section. [1969 c 13 § 8. Formerly RCW 28.47.799.]

Severability—1969 c 13: See note following RCW 28A.47.792.

28A.47.7991 Bonds authorized under RCW 28A.47.784 through 28A.47.799 may be refunded—Security. Any or all of the heretofore issued and outstanding bonds authorized by RCW 28A.47.784 through 28A.47.791, and by RCW 28A.47.792 through 28A.47.799 may be refunded by the issuance of general obligation bonds of the state of Washington pursuant to the provisions of chapter 39.53 RCW as heretofore or hereafter amended. Any such refunding general obligation bonds shall be additionally secured as to the payment thereof by a pledge of interest on the permanent common school fund. [1974 ex.s. c 108 § 4.]

28A.47.800 1969 appropriation for construction, modernization of school plant facilities. For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there is hereby appropriated from the common school construction fund the sum of thirty-seven million, four thousand, four hundred twenty-seven dollars. [1969 ex.s. c 244 § 1. Formerly RCW 28.47.800.]

Severability—1969 ex.s. c 244: "If any section, paragraph, sentence, clause, phrase or word of this act should be held to be invalid or unconstitutional, such act shall not affect nor impair the validity or constitutionality of any other section, paragraph, sentence, clause, phrase or word of this act. It is hereby declared that had any section, paragraph, sentence, clause, phrase or word as to which this act is declared invalid been eliminated from the act at the time the same was considered, the act would have nevertheless been enacted with such portions eliminated." [1969 ex.s. c 244 § 16.] This applies to RCW 28A.41.140 and 28A.47.800 through 28A.47.811.

28A.47.801 1969 appropriation for construction, modernization of school plant facilities—Allocation by state board—Local school district participation, board rules and regulations. Funds appropriated to the state board of education from the common school construction fund shall be allotted by the state board of education in accordance with student enrollment as computed for the purposes of RCW 28A.41.140 and the provisions of RCW 28A.47.800 through 28A.47.811: *Provided*, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015, or such lesser amount as

may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid. [1974 ex.s. c 56 § 1; 1970 ex.s. c 42 § 5; 1969 ex.s. c 244 § 2. Formerly RCW 28.47.801.]

Severability—1974 ex.s. c 56: "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 56 § 9.] This applies to RCW 28A.47.801, 28A.47.802, 28A.47.803, 28A.47.805, 28A.47.807, 28A.47.808, 28A.47.809, and 28A.47.810.

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Severability—1969 ex.s. c 244: See note following RCW 28A.47.800.

28A.47.802 1969 appropriation for construction, modernization of school plant facilities—Allocation, board duties. In allotting the state funds provided by RCW 28A.47.800 through 28A.47.811, and in accordance with student enrollment as computed for the purposes of RCW 28A.41.140, the state board of education shall:

(1) Prescribe rules and regulations not inconsistent with RCW 28A.47.800 through 28A.47.811 governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board. [1974 ex.s. c 56 § 2; 1969 ex.s. c 244 § 3. Formerly RCW 28.47.802.]

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.47.803 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).

$$\begin{array}{rcccl} & \text{District adjusted} & \text{Total state ad-} & & \\ & \text{3-valuation per full} & \text{+justed valuation} & & \\ & \text{time equivalent} & \text{per full time} & & \\ & \text{pupil} & \text{equivalent pupil} & & \\ \text{Computed} & = & & = & \text{State} \\ \text{State} & & & & \text{Assist-} \\ \text{Ratio} & & & & \text{ance} \\ & \text{District adjusted} & \text{Total state ad-} & & \\ & \text{3+valuation per full} & \text{+justed valuation} & & \\ & \text{time equivalent} & \text{per full time} & & \\ & \text{pupil} & \text{equivalent pupil} & & \end{array}$$

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.47.804 1969 appropriation for construction, modernization of school plant facilities—Taxable valuation and percentage of state assistance to be used in determining eligibility for allotment. Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW 28A.47.801 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percentage of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the state board of education in which case the percentage prevailing on the date of allotment by the state board of funds for each project shall govern: *Provided*, That if the state board of education determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment is made shall be used for the purposes aforesaid: *Provided, further*, That the date herein specified as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter 28A.56 RCW to determine eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit. [1969 ex.s. c 244 § 5. Formerly RCW 28.47.804.]

Severability—1969 ex.s. c 244: See note following RCW 28A.47.800.

28A.47.805 1969 appropriation for construction, modernization of school plant facilities—Additional allotment authorized—Effect of allotment on future disbursements to district. If a school district which has qualified for an allotment of state funds under the provisions of RCW 28A.47.800 through 28A.47.811 for school building construction is found by the state board of education to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW 28A.47.803, an additional allotment may be made to such district: *Provided*, That the total amount allotted shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the state board of education finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such additional allotment, or any part of such amount as the state board of education determines, shall be deducted, under terms and conditions prescribed by the board, from any state school building construction funds which might otherwise be provided to such district. [1974 ex.s. c 56 § 4; 1969 ex.s. c 244 § 6. Formerly RCW 28.47.805.]

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.47.806 1969 appropriation for construction, modernization of school plant facilities—Application by district for state assistance—Studies and surveys by state board. All applications by school districts for state assistance in providing school plant facilities shall be made to the superintendent of public instruction in conformity with rules and regulations which shall be prescribed by the state board of education. Studies and surveys shall be conducted by the state board for the purpose of securing information relating to (a) the kind and extent of the school plant facilities required and the urgency of need for such facilities in districts that seek state assistance, (b) the ability of such districts to provide capital funds by local effort, (c) the need for improvement of school administrative units and school attendance areas among or within such districts, and (d) any other pertinent matters. [1969 ex.s. c 244 § 7. Formerly RCW 28.47.806.]

Severability—1969 ex.s. c 244: See note following RCW 28A.47.800.

28A.47.807 1969 appropriation for construction, modernization of school plant facilities—Manual, other materials to guide and provide information to district. It shall be the duty of the state board of education, in consultation with the Washington state department of health, to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and

concerned with the designing, planning, maintenance and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding (a) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW 28A.47.800 through 28A.47.811; (b) procedures in inaugurating and conducting a school plant planning program for a school district; (c) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (d) the planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (e) an acceptable school building maintenance program and the necessity therefor; (f) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (g) any other matters regarded by the state board as pertinent or related to the purposes and requirements of RCW 28A.47.800 through 28A.47.811. [1974 ex.s. c 56 § 5; 1969 ex.s. c 244 § 8. Formerly RCW 28.47.807.]

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.47.808 1969 appropriation for construction, modernization of school plant facilities—State board to provide district with consultatory, advisory service. The state board of education shall furnish to school districts seeking state assistance under the provisions of RCW 28A.47.800 through 28A.47.811 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities. [1974 ex.s. c 56 § 6; 1969 ex.s. c 244 § 9. Formerly RCW 28.47.808.]

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.47.809 1969 appropriation for construction, modernization of school plant facilities—Modifiable basic or standard plans for school buildings. Whenever in the judgment of the state board of education economies may be effected without impairing the usefulness and adequacy of school buildings, said board may prescribe rules and regulations and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW 28A.47.800 through 28A.47.811 are allotted. [1974 ex.s. c 56 § 7; 1969 ex.s. c 244 § 10. Formerly RCW 28.47.809.]

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.47.810 1969 appropriation for construction, modernization of school plant facilities—Appropriation to be reduced by amount of federal funds made available for school construction except to federally affected areas. The total amount of funds appropriated under the provisions of RCW 28A.47.800 through 28A.47.811 shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. The funds appropriated by RCW 28A.47.800 through 28A.47.811 and available for allotment by the state board of education shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of funds appropriated by RCW 28A.47.800 through 28A.47.811 shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law No. 815 or any other federal act authorizing school building construction assistance to federally affected areas. [1974 ex.s. c 56 § 8; 1969 ex.s. c 244 § 11. Formerly RCW 28.47.810.]

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.47.811 1969 appropriation for construction, modernization of school plant facilities—Permissible allocations. In accordance with RCW 28A.47.801, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW 28A.47.800 through 28A.47.810 the sum of forty-three million, two hundred thousand dollars: *Provided*, That expenditures against such allocation shall not exceed the amount appropriated in RCW 28A.47.800. [1969 ex.s. c 244 § 12. Formerly RCW 28.47.811.]

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.48.055 Private schools must report attendance.
- 28A.48.080 Apportionment in joint districts.
- 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 September 1st of the then calendar year and ending August 31st 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-'76 2nd ex.s. c 118 § 27; 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: For codification of chapter 195, Laws of 1973 1st ex. sess. see notes following RCW 84.52.043.

Severability—1975-'76 2nd ex.s. c 118: See notes following RCW 28A.65.400.

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.48.055 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.48.080 Apportionment in joint districts. See RCW 28A.57.250.

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 September, 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 August thirty-first, 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-'76 2nd ex.s. c 118 § 28; 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.]

Severability—1975-'76 2nd ex.s. c 118: See notes following RCW 28A.65.400.

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.51 DISTRICT BONDS FOR LANDS, BUILDINGS AND EQUIPMENT

Sections

- 28A.51.010 Directors may borrow money, issue bonds—Rate of interest, term, form, sale and redemption.
- 28A.51.020 Bond election regulations—Bonds, coupons, signatures, seal.
- 28A.51.030 Certificate of results of election to county treasurer—Sale provisions—Contents of bonds—Registration.
- 28A.51.055 Signature on bonds by designee.
- 28A.51.056 Signature on bonds by designee—Authorization—Revocation.
- 28A.51.057 Signature on bonds by designee—Liability of officer affixing signature through a designee.
- 28A.51.058 Signature on bonds by designee—Coupons—Facsimile signatures.
- 28A.51.070 Sale of bonds—Delivery—Disposition of proceeds.
- 28A.51.180 Refunding former issues without vote of the people.
- 28A.51.190 Holder to notify treasurer—Redemption.
- 28A.51.200 Expense of county treasurer.
- 28A.51.210 Cancellation of redeemed bonds.
- 28A.51.220 Exchange of warrants for bonds.

28A.51.010 Directors may borrow money, issue bonds—Rate of interest, term, form, sale and redemption. The board of directors of any school district may borrow money and issue negotiable coupon bonds therefor for the purpose of:

(1) Funding outstanding indebtedness or bonds theretofore issued; or

(2) For the purchase of sites for all buildings, playgrounds, physical education and athletic facilities and structures authorized by law or necessary or proper to carry out the functions of a school district; or

(3) For erecting all buildings authorized by law, including but not limited to those mentioned in subparagraph (2) immediately above or necessary or proper to carry out the functions of a school district, and providing the necessary furniture, apparatus, or equipment therefor; or

(4) For any or all of these purposes.

Neither the amount of money borrowed nor bonds issued therefor shall exceed the limitation of indebtedness prescribed by chapter 39.36 RCW, as now or hereafter amended.

Bonds may be issued only when authorized by the vote of the qualified electors of the district as provided by law.

The bonds so issued shall be in such form, for such terms, bear such interest, be sold in such manner, and be payable and redeemable, as the board of directors shall determine in accordance with this chapter and chapter 39.44 RCW. [1970 ex.s. c 42 § 7; 1969 c 142 § 2; 1969 ex.s. c 223 § 28A.51.010. Prior: 1953 c 163 § 1; 1927 c 99 § 1; 1921 c 147 § 1; 1919 c 90 § 12; 1909 c 97 p 324 § 1; RRS § 4941; prior: 1907 c 240 § 7 1/2; 1907 c 101 § 1; 1903 c 153 § 1; 1897 c 118 § 117; 1890 p 45 § 1. Formerly RCW 28.51.010, 28.51.050, part.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

Validation—1969 c 142: See RCW 39.36.900.

28A.51.020 Bond election regulations—Bonds, coupons, signatures, seal. The question whether the bonds shall be issued, as provided in RCW 28A.51.010, shall be determined at an election to be held in the manner prescribed by law for holding annual school elections. Notice therefor to be given in such manner as provided in RCW 29.27.080 shall state the amount of bonds proposed to be issued, time they are to run, and the purpose for which the money is to be used. The ballots must contain the words "Bonds, yes," or "Bonds, no." If a majority of the votes cast at such election are "Bonds, yes," the board of directors must issue such bonds: *Provided*, That if the amount of bonds to be issued, together with any outstanding indebtedness of the district, exceeds three-eighths of one percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, then three-fifths of the votes cast at such election must be "Bonds, yes," before the board of directors is authorized to issue said bonds. Except as otherwise provided for facsimile signatures on bonds and coupons in chapter 39.44 RCW, or as otherwise in this chapter provided, bonds with the coupons shall be signed in the corporate name of the district by the president or chairman of the board of directors thereof and attested by the school district superintendent as secretary of the board. In districts of the first class the corporate seal of the said district shall be affixed to each bond by the school district superintendent thereof. [1970 ex.s. c 42 § 9; 1969 ex.s. c 223 § 28A.51.020. Prior: 1909 c 97 p 324 § 2; RRS § 4942; prior: 1897 c 118 § 118; 1890 p 46 § 2. Formerly RCW 28.51.020, 28.51.050, part.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

28A.51.030 Certificate of results of election to county treasurer—Sale provisions—Contents of bonds—Registration. Upon receipt of a resolution from the board of directors of any school district authorizing the sale of all or any part of bonds authorized by an election as provided for in RCW 28A.51.020, the

county treasurer of the county to which said school district belongs shall publish notice of the sale of the said bonds in accordance with the provisions of RCW 39.44-.030. Said notices, in addition to such information as required in RCW 39.44.030, must give the amounts of bonds to be sold, the time to run, where payable, the option, if any, of the district to redeem, also naming the hour and day for considering bids, and asking bidders to name the price and rates of interest at which they will purchase such bonds or any of them. Such bonds may be issued in such denominations as provided for in RCW 39.44.011, and shall contain upon their faces the date and series of issue, rate of interest, where payable, time to run, option, if any, of district to redeem and that the whole indebtedness of said district does not exceed the constitutional limit. Each bond so issued must be registered by the county treasurer, in a book to be kept for that purpose, which must show the number and such data as is necessary to secure a complete record of such bond, the series and amount of such bond, the person to whom the same is issued, the number of the district issuing, together with the names of directors signing the same; and the said bond shall be indorsed and bear a statement on the back thereof as provided in RCW 39.44.102: *Provided*, That in the case of joint school districts the bond or bonds shall be registered by the treasurer of each county in which any part of such school district shall lie. [1969 ex.s. c 223 § 28A.51.030. Prior: 1919 c 90 § 13; 1909 c 97 p 325 § 3; RRS § 4943; prior: 1907 c 101 § 2; 1905 c 142 § 6; 1897 c 118 § 119; 1890 p 46 § 3. Formerly RCW 28.51.030, 28.51.040, part, 28.51.050, part and 28.51.060.]

28A.51.055 Signature on bonds by designee. In addition to the authorization of the use of facsimile signatures in chapter 39.44 RCW, the board of directors of any school district authorized by vote of the electorate to issue bonds for capital purposes or the payment of validated indebtedness, or any officer required by law to sign such bonds, in the manner in RCW 28A.51.055 through 28A.51.058 provided, may authorize one or more bonded persons to affix the signature of the designating officer to such bonds. When the signature of such officer is so affixed to any such bond or bonds pursuant to such designation, the bond or bonds shall bind the school district and all persons concerned as though the signature were made by the designating officer. [1969 ex.s. c 223 § 28A.51.055. Prior: 1951 c 88 § 1. Formerly RCW 28.51.055.]

28A.51.056 Signature on bonds by designee—Authorization—Revocation. Whenever any such board or officer desires to designate a person for said purpose, such action shall be authorized by resolution at a regular or special meeting of the board, giving the name of the person who has been selected therefor and stating, either generally or specifically, what bond or bonds such person shall have authority to sign. If so stated and appearing in such resolution, for the signature of such officer upon any such bond or bonds there may be a facsimile reproduction of such officer's own signature impressed by some mechanical process followed by the word "By" and

the original signature of the bonded person so designated by such board or officer. Any such designation may be revoked by resolution signed by the board or officer who has made such designation, and such revocation shall be effective from the time of receipt of a certified copy of such resolution, but shall not affect the validity of any signature theretofore validly made. [1969 ex.s. c 223 § 28A.51.056. Prior: 1951 c 88 § 2. Formerly RCW 28.51.056.]

28A.51.057 Signature on bonds by designee—Liability of officer affixing signature through a designee. Any such officer authorizing the affixing of his signature in the manner provided in RCW 28A.51.055 through 28A.51.058 shall be subject to the same liability, personally and on his official bond, for any signature so affixed, to the same extent as if such signature had been affixed by himself in person. [1969 ex.s. c 223 § 28A.51.057. Prior: 1951 c 88 § 3. Formerly RCW 28.51.057.]

28A.51.058 Signature on bonds by designee—Coupons—Facsimile signatures. In the case of coupons attached to any bond or bonds, the signature or signatures of any of said officers on any such coupons shall be lawful and sufficient if a facsimile reproduction of such officer's own signature is printed, lithographed or engraved on such coupons without further authentication thereon. [1969 ex.s. c 223 § 28A.51.058. Prior: 1951 c 88 § 4. Formerly RCW 28.51.058.]

28A.51.070 Sale of bonds—Delivery—Disposition of proceeds. At the time named in said notice it shall be the duty of said board of directors to meet with the county treasurer at his office, and with him open said bids, and sell said bonds or any portion thereof to the person or persons making the most advantageous offer: *Provided*, That said bids and the acceptance or rejection thereof and the sale of such bonds shall be in conformance with the provisions of RCW 39.44.030. Upon the sale of the bonds, the board of directors, as soon thereafter as practicable, shall deliver the bonds, properly executed, to the county treasurer, taking his receipt therefor. The county treasurer, upon payment of the price agreed upon, shall deliver the same to the person or persons to whom sold, and place the moneys arising from such sale to the credit of the general school fund of the district: *Provided*, That where the bonds have been sold for the purchase of a schoolhouse site or sites or building one or more schoolhouses and providing the same with all necessary furniture, apparatus or equipment, or for any or all of these purposes, he shall place the money derived from such sale to the credit of the building fund of the district, and such fund is hereby created. Fees for advertising shall be deducted from the proceeds. If the board of directors and the person or persons to whom the bonds are sold agree that the delivery of said bonds shall be in installments, the county treasurer shall hold said bonds, and deliver to purchasers only on written order of the board of directors to deliver at specified times the bonds designated by number and series. [1969 ex.s. c 223 § 28A.51.070. Prior: 1911 c 88

§ 1; 1909 c 97 p 326 § 4; RRS § 4944; prior: 1907 c 240 § 9; 1905 c 142 § 7; 1897 c 118 § 120; 1890 p 47 § 4. Formerly RCW 28.51.070, 28.51.080, 28.51.090, 28.51.100 and 28.51.110.]

28A.51.180 Refunding former issues without vote of the people. Whenever any bonds lawfully issued by any school district under the provisions of this chapter shall reach maturity and shall remain unpaid, or may be paid under any option provided in the bonds, the board of directors thereof shall have the power without any vote of the school district to fund the same by issuing coupon bonds conformable to the requirements of this chapter and sell the same at not less than their par value and use the proceeds exclusively for the purpose of retiring and canceling such outstanding bonds as aforesaid, or the said directors in their discretion may exchange such refunding bonds par for par for such outstanding bonds: *Provided*, That such bonds shall be issued in such denominations as the school district issuing such bonds in its discretion shall determine and in accordance with RCW 39.44.011, shall be redeemable within the time provided by RCW 39.44.070 and shall draw a rate of interest not to exceed that allowed by law and as the school district issuing such bonds so designates. [1969 ex.s. c 223 § 28A.51.180. Prior: 1969 ex.s. c 232 § 66; 1945 c 32 § 1; 1909 c 97 p 329 § 12; Rem. Supp. 1945 § 4952; prior: 1897 c 118 § 124, part; 1890 p 48 § 8, part. Formerly RCW 28.51.180.]

28A.51.190 Holder to notify treasurer—Redemption. Every holder of any of the bonds so issued as provided in this chapter, within ten days after he shall become the owner or holder thereof, shall notify the county treasurer of the county in which such bonds are issued of his ownership, together with his full name and post office address, and the county treasurer of said county, in addition to the published notice in RCW 28A.51.210 provided for, shall deposit in the post office, properly stamped and addressed to each owner or holder of any such bonds subject to redemption or payment, a notice in like form, stating the time and place of the redemption of such bonds and the number of the bonds to be redeemed, and in case any owners of bonds shall fail to notify the treasurer of their ownership as aforesaid, then a notice mailed to the last holder of such bonds shall be deemed sufficient, and any and all such notices so mailed as aforesaid shall be deemed to be personal notice to the holders of such bonds, and at the expiration of the time therein named shall have the force to suspend the interest upon any such bonds. [1969 ex.s. c 223 § 28A.51.190. Prior: 1909 c 97 p 330 § 13; RRS § 4953; prior: 1897 c 118 § 125; 1890 p 49 § 9. Formerly RCW 28.51.190.]

28A.51.200 Expense of county treasurer. At any time after the issuance of such bonds as in this chapter provided, and in the discharge of the duties imposed upon said county treasurer, should any incidental expense, costs or charges arise, the said county treasurer shall present his claim for the same to the board of directors of the school district issuing such bonds, and

the same shall be audited and paid in the same manner as other services are paid under the provisions of law. [1969 ex.s. c 223 § 28A.51.200. Prior: 1909 c 97 p 330 § 14; RRS § 4954; prior: 1897 c 118 § 126; 1890 p 50 § 10. Formerly RCW 28.51.200.]

28A.51.210 Cancellation of redeemed bonds. Whenever the amount of any sinking fund created under the provisions of this chapter shall equal the amount, principal and interest of any bond then due, or subject under the pleasure or option of said school district to be paid or redeemed, it shall be the duty of the county treasurer of the county in which the school district issuing such bonds is located, to publish a notice in the official newspaper of the county, if such a one there be, and if not, then in a newspaper of general circulation, that the said county treasurer within thirty days from the date of such notice, will redeem and pay any such bond then redeemable or payable, giving priority according to the date of issue numerically, and upon the presentation of any such bond or bonds the said treasurer shall pay the same; and in case that any holder of such bond or bonds shall fail or neglect to present the same at the time mentioned in said notice, or in the notice provided for in RCW 28A.51.190, then the interest upon such bond or bonds shall cease and determine, and the treasurer of such county thereafter shall pay only the amount of such bond and the interest accrued thereon up to the day mentioned in said notice. When any bonds are so redeemed or paid, the county treasurer shall cause the same to be fully canceled, and write across the face of such bonds the words "redeemed," with the date of redemption, and shall file the same with the county auditor as vouchers for the sum so paid. When the bonds are held by the state of Washington advertising as contemplated and prescribed in this section shall be deemed unnecessary. [1969 ex.s. c 223 § 28A.51.210. Prior: 1911 c 88 § 4; 1909 c 97 p 330 § 15; RRS § 4955; prior: 1897 c 118 § 127; 1890 p 50 § 11. Formerly RCW 28.51.210.]

28A.51.220 Exchange of warrants for bonds. If bonds issued under this chapter are not sold as in this chapter provided, the holders of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the date of the election may exchange said warrants at the face value thereof and accrued interest thereon for coupon bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district. [1969 ex.s. c 223 § 28A.51.220. Prior: 1909 c 97 p 327 § 5; RRS § 4945. Formerly RCW 28.51.220.]

Chapter 28A.52

VALIDATING INDEBTEDNESS—BONDS

Sections

- 28A.52.010 Authority to validate indebtedness.
- 28A.52.020 Resolution providing for election—Vote required to validate.
- 28A.52.030 Notice of election.
- 28A.52.040 Manner and result of election.

- 28A.52.050 Authority to borrow, issue bonds—Bond procedure, interest, signatures.
- 28A.52.055 Resolution of issuance and sale—Applicable law—Interest—Advertising—Bids—Disposition of proceeds.
- 28A.52.060 Exchange of warrants for bonds.
- 28A.52.070 Notice to county treasurer of authority to issue bonds—Annual levy for payment of interest and principal on bonds—Penalty against officer for expenditures in excess of revenues.
- 28A.52.080 Validating indebtedness proceedings after merger.

28A.52.010 Authority to validate indebtedness. Any school district may validate and ratify the indebtedness of such school district, incurred for strictly school purposes, when the same together with all then outstanding legal indebtedness does not exceed that amount permitted for school districts in RCW 39.36.020(1) and (3). The value of taxable property in such school district shall be ascertained as provided in Article eight, section six, Amendment 27, of the Constitution of the state of Washington. [1969 ex.s. c 223 § 28A.52.010. Prior: 1909 c 97 p 331 § 1; RRS § 4956. Prior: 1897 c 118 § 128; 1895 c 21 § 1. Formerly RCW 28.52.010.]

Reviser's note: The above reference to RCW 39.36.020(1) and (3) was apparently based upon the 1967 version of that section (1967 c 107 § 4); The contents and organization of that section have been altered by subsequent amendments thereto.

28A.52.020 Resolution providing for election—Vote required to validate. Whenever the board of directors of any school district shall deem it advisable to validate and ratify the indebtedness mentioned in RCW 28A.52.010, they shall provide therefor by resolution, which shall be entered on the records of such school district, which resolution shall provide for the holding of an election for the purpose of submitting the question of validating and ratifying the indebtedness so incurred to the voters of such school district for approval or disapproval, and if at such election three-fifths of the voters in such school district voting at such election shall vote in favor of the validation and ratification of such indebtedness, then such indebtedness so validated and ratified and every part thereof existing at the time of the adoption of said resolution shall thereby become and is hereby declared to be validated and ratified and a binding obligation upon such school district. [1969 ex.s. c 223 § 28A.52.020. Prior: 1909 c 97 p 331 § 2; RRS § 4957; prior: 1897 c 118 § 129; 1895 c 21 § 2. Formerly RCW 28.52.020.]

28A.52.030 Notice of election. At the time of the adoption of the resolution provided for in RCW 28A.52.020, the board of directors shall direct the school district superintendent to give notice to the county auditor of the suggested time and purpose of such election, and specifying the amount and general character of the indebtedness proposed to be ratified. Such superintendent shall also cause written or printed notices to be posted in at least five places in such school district at least twenty days before such election. In addition to his other duties relating thereto, the county auditor shall give notice of such election as provided for in RCW 29.27.080. [1969 ex.s. c 223 § 28A.52.030. Prior: 1909 c

97 p 332 § 3; RRS § 4958; prior: 1897 c 118 § 131; 1895 c 21 § 4. Formerly RCW 28.52.030.]

28A.52.040 Manner and result of election. Elections hereunder shall be by ballot, and conducted in the manner provided for conducting annual school elections. The ballot must contain the words, "Validating and ratifying indebtedness, yes," or the words, "Validating and ratifying indebtedness, no." Ballots containing the words, "Validating and ratifying indebtedness, yes," shall be counted in favor of validating and ratifying such indebtedness, and ballots containing the words, "Validating and ratifying indebtedness, no," shall be counted against validating and ratifying such indebtedness. At their next meeting following ascertainment of the result of the election from the county auditor, the board of directors of any such district holding such an election shall cause to be entered a minute thereof on the records of such district. The qualifications of voters at such election shall be the same as prescribed for the election of school officials. [1969 ex.s. c 223 § 28A.52.040. Prior: 1909 c 97 p 332 § 4; RRS § 4959; prior: 1897 c 118 § 130; 1895 c 21 § 3. Formerly RCW 28.52.040.]

Conduct of elections, canvass: RCW 29.13.040.

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.

28A.52.055 Resolution of issuance and sale—Applicable law—Interest—Advertising—Bids—Disposition of proceeds. When authorized to issue bonds, as provided in this chapter, the board of directors shall, at a meeting of such board, by resolution provide for the issue, sale, and disposition of the proceeds from the sale of such bonds, and the payment of interest and principal thereon, all in accordance with the provisions of chapter 39.44 RCW, and the money arising from the sale of the bonds issued under this chapter shall be applied as provided in RCW 28A.52.050. [1969 ex.s. c 223 § 28A.52.055. Prior: 1909 c 97 p 334 § 6; RRS § 4961; prior: 1897 c 118 § 133; 1895 c 21 § 6. Formerly RCW 28.52.055.]

28A.52.060 Exchange of warrants for bonds. If bonds issued under this chapter are not sold as herein provided, the holders of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the time of the adoption of the resolution mentioned in RCW 28A.52.020, may exchange said warrants at the face value thereof and accrued interest thereon for coupon bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district. [1969 ex.s. c 223 § 28A.52.060. Prior: 1909 c 97 p 334 § 7; RRS § 4962; prior: 1897 c 118 § 134; 1895 c 21 § 7. Formerly RCW 28.52.060.]

28A.52.070 Notice to county treasurer of authority to issue bonds—Annual levy for payment of interest and principal on bonds—Penalty against officer for expenditures in excess of revenues. When authorized to issue bonds, as provided in this chapter the board of directors shall immediately cause to be sent to the appropriate county treasurer, notice thereof. The county officials charged by law with the duty of levying taxes for the payment of said bonds and interest shall do so as provided in RCW 39.44.020.

The annual expense of such district shall not thereafter exceed the annual revenue thereof, and any officer of such district who shall knowingly aid in increasing the annual expenditure in excess of the annual revenue of such district, in addition to any other penalties, whether civil or criminal, as provided by law, shall be deemed to be guilty of a misdemeanor, and shall be punished by a fine not exceeding five hundred dollars. [1969 ex.s. c 223 § 28A.52.070. Prior: 1909 c 97 p 335 § 8; RRS § 4963; prior: 1897 c 118 § 135; 1895 c 21 § 8. Formerly RCW 28.52.070.]

28A.52.080 Validating indebtedness proceedings after merger. In case any school district has heretofore incurred, or shall hereafter incur, indebtedness for strictly school purposes and has heretofore, or shall hereafter, become merged with another district as provided in chapter 28A.57 RCW, the directors of the last named district may, after such merger, cause to be submitted to the voters within the limits of the district which incurred the obligations, the question of validating and ratifying such indebtedness. The vote shall be taken and the question determined in the manner prescribed in RCW 28A.52.020, 28A.52.030 and 28A.52.040. The directors of the district to which the district incurring the obligations was merged shall make provisions for payment of the indebtedness so validated by certifying the amount thereof in the manner prescribed in RCW 28A.52.070: *Provided*, Such enlarged district may pay a part, or all, of such validating indebtedness from any funds available or by issuing bonds therefor when such enlarged district has taken over property of any district and in making such adjustment and apportionment as provided in chapter 28A.57 RCW, the value of the property received shall be found to exceed the total indebtedness of the district annexed to the extent of such

value over the total indebtedness of the district annexed. [1969 ex.s. c 223 § 28A.52.080. Prior: 1913 c 136 § 1; RRS § 4964. Formerly RCW 28.52.080.]

Chapter 28A.56

CAPITAL FUND AID BY NONHIGH DISTRICTS

Sections

- 28A.56.005 High school facilities defined.
- 28A.56.010 Plan for nonhigh district to provide capital funds in aid of high school district.
- 28A.56.020 Factors to be considered in preparation of plan.
- 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.56.070 Failure of nonhigh districts to submit proposal to vote within time limits—Annexation procedure.
- 28A.56.075 Nonhigh districts, time of levy and issuance of bonds.
- 28A.56.170 Validation of proceedings under 1955 act, when.

28A.56.005 High school facilities defined. High school facilities shall mean buildings for occupancy by grades nine through twelve and equipment and furniture for such buildings and shall include major alteration or major remodeling of buildings and the acquisition of new sites and of additions to existing sites, and improvement of sites but only when included as a part of a general plan for the construction, equipping and furnishing of a building or of an alteration or addition to a building. The term shall also (1) include that portion of any building, alteration, equipment, furniture, site and improvement of site allocated to grade nine when included in a plan for facilities to be occupied by grades seven through nine and (2) includes such facilities for grades seven and eight when included in a plan as aforesaid, if the county committee finds that students of these grades who reside in any nonhigh school districts involved are now attending school in the high school district involved under an arrangement which likely will be continued. [1969 ex.s. c 223 § 28A.56.005. Prior: 1959 c 262 § 2. Formerly RCW 28.56.005.]

28A.56.010 Plan for nonhigh district to provide capital funds in aid of high school district. Upon receipt of a written request from the board of directors of a high school district or a nonhigh school district that presents to the county committee on school district organization satisfactory evidence of a need for high school facilities to be located therein and of ability to provide such facilities, the county committee shall prepare a plan for participation by any nonhigh school district or districts in providing capital funds to pay the costs of such school facilities and equipment to be provided for the education of students residing in the school districts. Prior to submission of the aforesaid request the board of directors of the school district concerned therewith shall determine the nature and extent of the high school facilities proposed to be provided, the approximate amount of local capital funds required to pay the cost thereof, and the site or sites upon which the proposed facilities are to be located, and shall submit a report thereon to the county committee along with the aforesaid request. [1969 ex.s. c

223 § 28A.56.010. Prior: 1959 c 262 § 1; 1955 c 344 § 1; 1953 c 229 § 1. Formerly RCW 28.56.010.]

28A.56.020 Factors to be considered in preparation of plan. The said county committee shall give consideration to:

(1) The report submitted by the board of directors as stated above;

(2) The exclusion from the plan of nonhigh school districts because of remoteness or isolation or because they are so situated with respect to location, present and/or clearly foreseeable future population, and other pertinent factors as to warrant the establishment of a high school therein within a period of two years or the inclusion of their territory in some other nonhigh school district within which the establishment of a high school within a period of two years is warranted;

(3) The assessed valuation of the school districts involved;

(4) The cash balance, if any, in the building fund of the district submitting the request which is designated for high school building construction purposes, together with the sources of such balance; and

(5) Any other factors found by the committee to have a bearing on the preparation of an equitable plan. [1969 ex.s. c 223 § 28A.56.020. Prior: 1959 c 262 § 3; 1955 c 344 § 2; 1953 c 229 § 2. Formerly RCW 28.56.020.]

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.

28A.56.070 Failure of nonhigh districts to submit proposal to vote within time limits—Annexation procedure. In case of failure or refusal by a board of directors of a nonhigh school district to submit a proposal or proposals to a vote of the electors within the time limit specified in RCW 28A.56.050 and 28A.56.060, the county committee may initiate a proposal for annexation of such nonhigh school district as provided for in RCW 28A.56.060. [1969 ex.s. c 223 § 28A.56.070. Prior: 1959 c 262 § 8; 1955 c 344 § 7; 1953 c 229 § 7. Formerly RCW 28.56.070.]

28A.56.075 Nonhigh districts, time of levy and issuance of bonds. If the voters of a nonhigh school district approve an excess tax levy, the levy shall be made at the earliest time permitted by law. If the voters of a nonhigh school district approve the issuance of bonds, the board of directors of the nonhigh school district shall issue and sell said bonds within ninety days after receiving a copy of a resolution of the board of directors of the high school district that the high school district is ready to proceed with the construction of the high school facilities provided for in the plan and requesting the sale of the bonds. [1969 ex.s. c 223 § 28A.56.075. Prior: 1959 c 262 § 9. Formerly RCW 28.56.075.]

28A.56.170 Validation of proceedings under 1955 act, when. All proceedings had and taken under chapter 344, Laws of 1955, shall be valid and binding although not in compliance with that act if said proceedings comply with the requirements of this chapter. [1969 ex.s. c 223 § 28A.56.170. Prior: 1959 c 262 § 11. Formerly RCW 28.56.170.]

Chapter 28A.57 ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

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Budget review committee, member of school district board of directors as member thereof: RCW 28A.65.145.

28A.57.010 Purpose. It is the intent and purpose of this chapter (1) to incorporate into a single, permanent, school district organization law all essential provisions governing the formation and establishment of new school districts, the alteration of the boundaries of existing districts, and the adjustment of the assets and liabilities of school districts when changes are made as aforesaid; and (2) to establish methods and procedures whereby the aforesaid changes in the school district system may be brought about by the people concerned and affected, all to the end that the territorial organization of school districts may be more readily adapted to the needs of the changing economic pattern and educational program in the state; that existing disparities among school districts in ability to provide current and capital outlay funds may be reduced and the educational opportunities of children thereby enhanced; and that a wiser use of public funds may be secured through improvement in the school district system. It is not the intent nor purpose of this chapter to apply to organizational changes and the procedure therefor relating to capital fund aid by non-high districts as provided for in chapter 28A.56 RCW. [1969 ex.s. c 223 § 28A.57.010. Prior: 1947 c 266 § 1; Rem. Supp. 1947 § 4693-20; prior: 1941 c 248 § 1; Rem. Supp. 1941 § 4709-1. Formerly RCW 28.57.010.]

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.57.030 County committees—Created. There is hereby created in each county a committee which shall be known as the county committee on school district organization, which committee shall be composed of not less than five nor more than nine registered voters of the county, the number in each county to be determined by the persons in RCW 28A.57.032 charged with the duty of electing the members of the committee. [1969 ex.s. c 223 § 28A.57.030. 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.]

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. 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-'76 2nd ex.s. c 15 § 1. Prior: 1975 1st ex.s. c 275 § 80; 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.]

Effective date—**Severability**—1975 c 43: See notes following RCW 28A.57.140.

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.57.034 County committees—Terms of members. The terms of members of the county committee shall be for five years and until their successors are elected. As nearly as possible one-fifth of the members shall be elected annually. [1969 ex.s. c 223 § 28A.57.034. 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.]

28A.57.035 County committees—Members' expenses reimbursed. Members of the county committee shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties. [1969 ex.s. c 176 § 118; 1969 ex.s. c 223 § 28A.57.035. 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. 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-'76 2nd ex.s. c 15 § 2. Prior: 1975 1st ex.s. c 275 § 83; 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.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

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.57.055 County committees—Committee consideration in implementing RCW 28A.57.050. The county committee, in carrying out the purposes of RCW 28A.57.050, shall give due consideration in the preparation of plans and terms of adjustment as provided for therein (a) to equalization of the educational opportunities of pupils and to economies in the administration and operation of schools through the formation of larger units of administration and areas of attendance; (b) to equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per-pupil valuation; (c) to geographical and other features, including, but not limited to such physical characteristics as mountains, lakes and rivers, waste land, climatic conditions, highways, and means of transportation; (d) to the convenience and welfare of pupils, including but not limited to remoteness or isolation of their places of residence and time required to travel to and from school; (e) to improvement of the educational opportunities of pupils through improvement and extension of school programs and through better instruction facilities, equipment, materials, libraries, and health and other services; (f) to equalization of the burden of financing the cost of high school facilities through extension of the boundaries of high school districts to include within each such district all of the territory served by the high school located therein: *Provided*, That a nonhigh school district may be excluded from a plan if such district is found by the county committee and the state board to be so situated with respect to location, present and clearly foreseeable future population, and other pertinent factors as to warrant the establishment and operation of a high school therein or the inclusion of its territory in a new district formed for the purpose of establishing and operating a high school; (g) to the future effective utilization of existing satisfactory school buildings, sites, and playfields; the adequacy of such facilities located in the proposed new district; and additional facilities required if such proposed district is formed; and (h) to any other matters which in the judgment of the committee are related to or may operate to further equalization and improvement of school facilities

and services, economies in operating and capital fund expenditures, and equalization among school districts of tax rates for school purposes. [1969 ex.s. c 223 § 28A.57.055. 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.]

28A.57.057 Changing conflicting or incorrectly described school district boundaries. In case the boundaries of any of the school districts are conflicting or incorrectly described, the county committee on school organization after due notice and a public hearing, shall change, harmonize, and describe them and shall so certify, with a complete transcript of boundaries of all districts affected, such action to the state board of education for its approval or revision. Upon receipt of notification of state board of education action, the county committee on school organization shall transmit to the county commissioners of the county or counties in which the affected districts are located a complete transcript of the boundaries of all districts affected. [1971 ex.s. c 282 § 26.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.57.060 Powers and duties of state board, generally. The powers and duties of the state board with respect to this chapter shall be:

(1) To aid county committees in the performance of their duties by furnishing them with plans of procedure, standards, data, maps, forms, and other necessary materials and services essential to a study and understanding of the problems of school district organization in the county.

(2) To receive, file, and examine the proposals and the maps, reports, records, and other materials relating thereto submitted by county committees and to approve such proposals and so notify the county committees when said proposals are found to provide for satisfactory improvement in the school district system of the counties and the state and for an equitable adjustment of the assets and liabilities of the districts involved or affected: *Provided*, That whenever such proposals are found by the state board to be unsatisfactory or inequitable, the board shall so notify the county committee and, upon request, assist the committee in making revisions which revisions shall be resubmitted within sixty days after such notification. [1969 ex.s. c 223 § 28A.57.060. Prior: 1955 c 395 § 3; 1947 c 266 § 14; Rem. Supp. 1947 § 4693-33; prior: 1941 c 248 § 8; Rem. Supp. 1941 § 4709-8. Formerly RCW 28.57.060.]

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.57.100 **Procedure upon rejection of proposal.** If a proposal for the formation of a new school district and for adjustment of bonded indebtedness, or either, is rejected by the registered voters at a special election, the county committee may make such revisions therein as it deems advisable and submit the revised proposal or proposals to the state board. Thereafter such revised proposal or proposals shall be subject to the provisions and procedural requirements of this chapter applicable to original proposals submitted to said board. [1969 ex.s. c 223 § 28A.57.100. Prior: 1947 c 266 § 22; Rem. Supp. 1947 § 4693-41. Formerly RCW 28.57.100.]

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28A.57.110 **Personnel and supplies to be furnished by state superintendent—Expenses reimbursed.** The superintendent of public instruction shall furnish to the state board and to county committees the services of employed personnel and the materials and supplies necessary to enable them to perform the duties imposed upon them by this chapter and shall reimburse the members thereof for expenses necessarily incurred by them in the performance of their duties, such reimbursement for county committee members to be in accordance with RCW 28A.57.035, as now or hereafter amended, and such reimbursement for state board members to be in accordance with allowances for members of the legislature under RCW 44.04.120, as now or hereafter amended. [1969 ex.s. c 223 § 28A.57.110. Prior: 1947 c 266 § 39; Rem. Supp. 1947 § 4693-58. Formerly RCW 28.57.110.]

28A.57.120 **Appeal.** An appeal may be taken, as provided for in RCW 28A.88.010 and 28A.88.020, to the superior court of the county in which a school district or any part thereof is situated on any question of adjustment of property and other assets and of liabilities provided for in this chapter. If the court finds the terms of the adjustment in question not equitable, the court shall make an adjustment that is equitable. [1969 ex.s. c 223 § 28A.57.120. Prior: 1947 c 266 § 40; Rem. Supp. 1947 § 4693-59. Formerly RCW 28.57.120.]

Reviser's note: RCW 28A.88.020 was repealed by 1971 ex.s. c 282 § 44.

Boundary change, copy of decision to county assessor: RCW 28A.88.090.

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.** 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-'76 2nd ex.s. c 15 § 3. Prior: 1975 1st ex.s. c 275 § 89; 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.]

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.

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.57.160 Reorganization of districts by transfer of territory or annexation. A new school district may be formed comprising contiguous territory lying in either a single county or in two or more counties. Such new district may comprise two or more whole school districts and/or a part of one or more school districts and/or territory which is not a part of any school district. The boundaries of existing school districts may be altered (1) by the transfer of territory from one district to another district, or (2) by the annexation to a district of a part or all of one or more other districts or of territory which is not a part of any school district: *Provided*, That such territory shall be contiguous to the district to which it is transferred or annexed. Territory may be transferred or annexed to an existing school district without regard to county boundaries. [1969 ex.s. c 223 § 28A.57.160. Prior: 1947 c 266 § 4; Rem. Supp. 1947 § 4693-23. Formerly RCW 28.57.160.]

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.57.195 Single school district for certain United States military reservations—Mandated. Notwithstanding other provisions of this chapter or any other provision of law and except as otherwise provided in RCW 28A.57.196, as of July 1, 1972, any United States military reservation in the state of Washington with more than two thousand five hundred common school age children in public schools resident thereon shall be included wholly within the boundaries of a single school district. Such single school district shall be one of the school districts presently having boundary lines within such military reservation and serving pupils thereon. The procedure for achieving such single school districts where they do not now exist, or in any year in the future when there are more than two thousand five hundred

common school age children on such a military reservation resident therein, shall be as prescribed in RCW 28A.57.196. [1972 ex.s. c 63 § 1.]

28A.57.196 Single school district for certain United States military reservations—Procedure—Limitations. On or before June 1, 1972, or in any year in the future when there are more than two thousand five hundred common school age children on a military reservation as referred to in RCW 28A.57.195 resident therein, whichever is the case, and notwithstanding other provisions of this chapter or any other provision of law, the county committee on school district organization of each county in which such a United States military reservation is located, or in the case such military reservation is located in two counties, the joint county committee established pursuant to RCW 28A.57.240, shall order effective July 1 of the then calendar year the annexation of portions of reservation territory not currently within the single school district, as required by RCW 28A.57.195, to one of the school districts encompassing a portion of the military reservation: *Provided*, That notwithstanding any other provision of RCW 28A.57.195 and 28A.57.196 the annexation order shall not include territory of school districts on such military reservations in which none or less than a majority of the pupils residing within that portion of the district within such military reservation have one or more parents serving in the military and under such military command. Notwithstanding any other provision of law, the decision as to which school district shall serve the pupils residing within such military reservation shall rest solely with the county committee on school district organization of the county in which the affected military reservation is located. The county committee on school district organization shall order such equitable transfer of assets and liabilities as is deemed necessary for the orderly transfer of the territory in accordance with transfers in other annexation proceedings authorized under this chapter. [1972 ex.s. c 63 § 2.]

28A.57.200 Dissolution and annexation of certain districts—Annexation of nondistrict property. 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-'76 2nd ex.s. c 15 § 4. Prior: 1975 1st ex.s. c 275 § 94; 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.]

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.57.210 Adjustment of indebtedness—Basis. The fact of the issuance of bonds by a school district, heretofore or hereafter, shall not prevent changes in the organization and extent of school districts, regardless of whether or not such bonds or any part thereof are outstanding at the time of change. In case of any change (1) the bonded indebtedness outstanding against any school district involved in or affected by such change shall be adjusted equitably among the old school districts and the new district or districts, if any, involved or affected; and (2) the property and other assets and the liabilities other than bonded indebtedness of any school district involved in or affected by any such change shall also be adjusted in the manner and to the effect hereinbefore in this section provided for, except when all the territory of an old school district is included in a single new district or is annexed to a single existing district, in which event the title to the property and other assets and the liabilities other than bonded indebtedness of such old district shall vest in and become the assets and liabilities of the new district or of the existing district as the case may be. [1969 ex.s. c 223 § 28A.57.210. Prior: 1947 c 266 § 7; Rem. Supp. 1947 § 4693-26. Formerly RCW 28.57.210.]

28A.57.220 Corporate existence retained to pay bonded indebtedness—Tax levies—Joint school districts. Each school district involved in or affected by any change heretofore or hereafter made in the organization and extent of school districts shall retain its corporate existence insofar as is necessary for the purpose until the bonded indebtedness outstanding against it on and after the effective date of said change has been paid in full: *Provided*, That nothing in this section shall be so construed as to prevent, after the aforesaid effective date, such adjustments of bonded indebtedness as are provided for in this chapter. The county commissioners shall have the power and it shall be their duty to provide by appropriate levies on the taxable property of each school district for the payment of the bonded indebtedness outstanding against it after any of the aforesaid changes and/or adjustments have been effected. In case any such

changes or adjustments involve a joint school district, the tax levy for the payment of any bonded indebtedness outstanding against such joint district after said changes or adjustments are effected shall be made and the proceeds thereof shall be transmitted, credited, and paid out in conformity with the provisions of law applicable to the payment of the bonded indebtedness of joint school districts heretofore established. [1969 ex.s. c 223 § 28A.57.220. Prior: 1947 c 266 § 8; Rem. Supp. 1947 § 4693-27. Formerly RCW 28.57.220.]

28A.57.230 Joint school districts—Defined—
Designation. Any school district composed of territory lying in more than one county shall be known as a joint school district, and shall be designated by number in accordance with rules and regulations promulgated under RCW 28A.04.130. [1973 c 47 § 1; 1969 ex.s. c 223 § 28A.57.230. Prior: 1947 c 266 § 25; Rem. Supp. 1947 § 4693-44; prior: 1909 c 97 p 264 § 6; RRS § 4699; prior: 1897 c 118 § 13. Formerly RCW 28.57.230.]

Severability—1973 c 47: "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 47 § 6.] This applies to RCW 28A.57.230, 28A.57.240, 28A.57.250, 28A.57.255, and 28A.57.260.

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.

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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.57.250 Joint school districts—Administration—County to which joint school district considered as belonging. For all purposes essential to the maintenance, operation, and administration of the schools of a district, including the apportionment of current state and county school funds, the county in which a joint school district shall be considered as belonging shall be as designated by the state board of education. Prior to making such designation, the state board of education shall hold at least one public hearing on the matter, at which time the recommendation of the joint school district shall be presented and, in addition to such recommendation, the state board shall consider the following prior to its designation:

- (1) Service needs of such district;
- (2) Availability of services;

(3) Geographic location of district and servicing agencies; and

(4) Relationship to contiguous school districts. [1973 c 47 § 3; 1969 ex.s. c 223 § 28A.57.250. Prior: 1947 c 266 § 27; Rem. Supp. 1947 § 4693-46. Formerly RCW 28.57.250.]

Severability—1973 c 47: See note following RCW 28A.57.230.

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.57.260 Joint school districts—Directors—Vacancies. A vacancy in the office of director of a joint district shall be filled in the manner provided by RCW 28A.57.326 for filling vacancies, such appointment to be valid only until a director is elected and qualified to fill such vacancy at the next regular district election. [1973 c 47 § 5; 1971 c 53 § 3; 1969 ex.s. c 176 § 134; 1969 ex.s. c 223 § 28A.57.260. Prior: 1947 c 266 § 28; Rem. Supp. 1947 § 4693-47. Formerly RCW 28.57.260.]

Severability—1973 c 47: See note following RCW 28A.57.230.

Severability—1971 c 53: "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 53 § 6.] This applies to RCW 28A.21.090, 28A.57.260, 28A.57.325 and 28A.57.326 and the repeal of RCW 28A.59.130.

Rights preserved—**Severability**—1969 ex.s. c 176: See notes following RCW 28A.21.010.

28A.57.270 Joint school districts—Powers and duties. A joint school district and the officers thereof

shall possess all the powers and be subject to all of the duties vested in or imposed upon other school districts of the same class and upon the officers thereof, except as otherwise provided by law. Whenever the laws relating to school districts shall provide for any action by a county officer, such action, if required to be performed in behalf of a joint school district, shall be performed by the proper officer of the county to which the joint district belongs, except as otherwise provided by law. [1969 ex.s. c 223 § 28A.57.270. Prior: 1947 c 266 § 29; Rem. Supp. 1947 § 4693-48. Formerly RCW 28.57.270.]

28A.57.280 Joint school districts—Assessed valuation of district property to be certified. It shall be the duty of the assessor of each county, a part of which is included within a joint school district, to certify annually to the auditor of his county and to the auditor of the county to which the joint district belongs, for the board of county commissioners thereof, the aggregate assessed valuation of all taxable property in his county situated in such joint school district, as the same appears from the last assessment roll of his county. [1969 ex.s. c 223 § 28A.57.280. Prior: 1947 c 266 § 30; Rem. Supp. 1947 § 4693-49; prior: 1927 c 286 § 1; 1925 ex.s. c 77 § 8; RRS § 4753-8. Formerly RCW 28.57.280.]

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.57.314 Directors—Declarations of candidacy—Designation of positions. Candidates for the position of school director shall file their declarations of candidacy as provided in RCW 29.21.060, as it now exists or may hereafter be amended.

Not less than ten days before the time of filing such declarations of candidacy, the officer charged with the conduct of the election shall designate by lot the positions to be filled by consecutive number, commencing with one. The positions so designated for school directors in each district shall be dealt with as separate offices for all election purposes, and where more than one position is to be filled, each candidate shall file for one of the positions so designated: *Provided*, That in school districts containing director districts, candidates shall file for such director districts. [1969 ex.s. c 223 § 28A.57.314. Prior: 1963 c 223 § 1. Formerly RCW 28.58.082.]

Commencement of terms of office: RCW 29.13.020, 29.13.050.
Nonpartisan primaries and elections: Chapter 29.21 RCW.
School directors in districts embracing city over 100,000, declarations of candidacy, designation of positions: RCW 29.21.200.
School district elections in class AA and class A counties, times for holding: RCW 29.13.020, 29.13.060.
School district elections in class 1 through 9 counties, times for holding: RCW 29.13.020.
Terms of office: RCW 29.13.020, 29.13.050, 29.13.060.

28A.57.316 Directors—Ballots—Form. Except as provided in RCW 29.21.010, the positions of school directors and the candidates therefor shall appear separately on the nonpartisan ballot in substantially the following form:

SCHOOL DIRECTOR ELECTION BALLOT
District No. -----
Date -----

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

School District Directors
Position No. 1
Vote for One

Position No. 2
Vote for One

To Fill Unexpired Term
Position No. 3
2 (or 4) year term
Vote for One

The names of candidates shall appear upon the ballot in order of filing for each position. There shall be no rotation of names in the printing of such ballots. [1969 ex.s. c 223 § 28A.57.316. Prior: 1963 c 223 § 2. Formerly RCW 28.58.083.]

School directors in districts embracing over 100,000, ballots: RCW 29.21.210.

28A.57.318 Directors—Elected when—Qualifications. Directors of school districts shall be elected at regular school elections. No person shall be eligible to the office of school director who is not a citizen of the United States and the state of Washington and a registered voter of either the school district or director district, as the case may be. [1969 ex.s. c 223 § 28A.57.318. Prior: 1909 c 97 p 285 § 1; RRS § 4775; prior: 1903 c 104 § 16; 1901 c 41 § 2; 1899 c 142 § 7; 1897 c 118 § 39; 1893 c 107 § 2; 1890 p 364 § 25. Formerly RCW 28.58.090.]

28A.57.322 Directors—Oath of office. Every person elected or appointed to the office of school director, before entering upon the discharge of the duties thereof, shall take an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of his office according to the best of his ability. In case any official has a written appointment or commission, his oath or affirmation shall be endorsed thereon and sworn to before any officer authorized to administer oaths. School officials are hereby authorized to administer all oaths or affirmations pertaining to their respective offices without charge or fee. All oaths of office, when properly made, shall be filed with the officer with whom declarations of candidacy for such positions are filed. [1969 ex.s. c 223 § 28A.57.322. Prior: 1909 c 97 p 288 § 11; RRS § 4786; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28.58.095; 28.63.015; 28.63.017; 42.04.030.]

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.57.325 Directors—Quorum—Failure to attend meetings may result in vacation of office. A majority of all members of the board of directors shall constitute a quorum. Absence of any board member from four consecutive regular meetings of the board, unless on account of sickness or authorized by resolution of the board, shall be sufficient cause for the remaining

members of the board to declare by resolution that such board member position is vacated. [1971 c 53 § 4.]

Severability—1971 c 53: See note following RCW 28A.57.260.

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. 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-'76 2nd ex.s. c 15 § 5. Prior: 1975 1st ex.s. c 275 § 101; 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.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

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.57.334 Directors—Candidates in undivided districts to indicate term sought—How elected. Whenever the directors to be elected in a school district that is not divided into directors' districts are not all to be

elected for the same term of years, the county auditor shall distinguish them and designate the same as provided for in RCW 29.21.140, and assign position numbers thereto as provided in RCW 28A.57.314 and each candidate shall indicate on his declaration of candidacy the term for which he seeks to be elected and position number for which he is filing. The candidate receiving the largest number of votes for each position shall be deemed elected. [1969 ex.s. c 223 § 28A.57.334. Prior: 1959 c 268 § 12. Formerly RCW 28.57.420.]

28A.57.336 Directors—Terms in certain first class districts to be staggered. Any first class school district having a board of directors of five members as provided in RCW 28A.57.312 and which elects directors for a term of six years under the provisions of RCW 29.13.060 shall cause the office of at least one director and no more than two directors to be up for election at each regular school district election held hereafter and, except as provided in RCW 28A.57.435, any first class school district having a board of directors of seven members as provided in RCW 28A.57.312 shall cause the office of two directors and no more than three directors to be up for election at each regular school district election held hereafter. [1969 c 131 § 11; 1969 ex.s. c 223 § 28A.57.336. Prior: 1959 c 268 § 13. Formerly RCW 28.57.430.]

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. 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-'76 2nd ex.s. c 15 § 6. Prior: 1975 1st ex.s. c 275 § 103; 1975 c 43 § 10; 1971 c 67 § 4.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

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. 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-'76 2nd ex.s. c 15 § 7. Prior: 1975 1st ex.s. c 275 § 104; 1975 c 43 § 11; 1973 2nd ex.s. c 21 § 10; 1973 c 19 § 1; 1971 c 67 § 5.]

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.57.358 Directors—Number and terms of in new first class district having enrollment of 50,000 in class AA counties. 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-'76 2nd ex.s. c 15 § 8. Prior: 1975 1st ex.s. c 275 § 105; 1975 c 43 § 12; 1973 2nd ex.s. c 21 § 4; 1971 c 67 § 6.]

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.57.390 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.57.410 Directors—Terms specified for directors in divided districts whose terms are not the same. Whenever all directors to be elected in a school district that is divided into directors' districts are not all to be elected for the same term of years, the county auditor, prior to the date set by law for filing a declaration of candidacy for the office of director, shall determine by lot the directors' districts from which directors shall be elected for a term of two years and the directors' districts from which directors shall be elected for a term of four years. Each candidate shall indicate on his declaration of candidacy the directors' district from which he seeks to be elected. [1969 ex.s. c 223 § 28A.57.410. Prior: 1959 c 268 § 11. Formerly RCW 28.57.410.]

28A.57.415 Directors—Dissolution of directors' districts. 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-'76 2nd ex.s. c 15 § 9. Prior: 1975 1st ex.s. c 275 § 107; 1975 c 43 § 13; 1971 c 48 § 27; 1969 ex.s. c 223 § 28A.57.415.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.57.425 Directors' districts in first class districts having enrollment of 50,000 in class AA counties—Boundaries—Director candidate eligibility—Declaration of candidacy—Primary limited to voters within district—When no primary—Terms of directors. Notwithstanding any other provision of law, school districts of the first class having an enrollment of fifty thousand pupils or more in class AA counties shall be divided into seven director districts. The boundaries of such director districts shall be established by the members of the school board and approved by the county

committee on school district organization, such boundaries to be established so that each such district shall comprise, as nearly as practicable, an equal portion of the population of the school district. Boundaries of such director districts shall be adjusted by the school board and approved by the county committee after each federal decennial census if population change shows the need thereof to comply with the equal population requirement above. No person shall be eligible for the position of school director in any such director district unless such person resides in the particular director district. Residents in the particular director district desiring to be a candidate for school director shall file their declarations of candidacy for such director district and for the position of director in that district and shall be voted upon in the primary election by the registered voters of that particular director district: *Provided*, That if not more than one person files a declaration of candidacy for the position of school director in any director district, no primary election shall be held in that district, and such candidate's name alone shall appear on the ballot for the director district position at the general election. The name of the person who receives the greatest number of votes and the name of the person who receives the next greatest number of votes at the primary for each director district position shall appear on the general election ballot under such position and shall be voted upon by all the registered voters in the school district. Except as provided in RCW 28A.57.435, every such director so elected in school districts divided into seven director districts shall serve for a term of six years as otherwise provided in RCW 29.13.060. [1973 2nd ex.s. c 21 § 5; 1969 c 131 § 9. Like section formerly RCW 28.57.425.]

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

28A.57.435 Directors' districts in first class districts having enrollment of 50,000 in class AA counties—Initial district boundaries—Appointments to fill vacancies for new director districts—Director district numbers. Within thirty days after March 25, 1969, the school boards of school districts of the first class having an enrollment of fifty thousand pupils or more in class AA counties shall establish the director district boundaries and obtain approval thereof by the county committee on school district organization. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for six years. The term of office of incumbent members of the board of such district shall not be affected by RCW 28A.57.312, 28A.57.336, 28A.57.425, 28A.57.435, 29.21.180, 29.21.210 and 29.21.230. [1973 2nd ex.s. c 21 § 6; 1969 c 131 § 10. Like section formerly RCW 28.57.426.]

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

Chapter 28A.58 PROVISIONS APPLICABLE TO ALL SCHOOL DISTRICTS

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Rules and regulations incorporating due process guarantees of pupils—Informal due process procedures when suspension of students: RCW 28A.04.132.

State supported environmental study centers, school districts' functions transferred to intermediate school districts: RCW 28A.21.300.

Uniform minor student capacity to borrow act: Chapter 26.30 RCW.

28A.58.010 Corporate powers. A school district shall constitute a body corporate and shall possess all the usual powers of a public corporation, and in that name and style may sue and be sued and transact all business necessary for maintaining school and protecting the rights of the district, and enter into such obligations as are authorized therefor by law. [1969 ex.s. c 223 § 28A.58.010. Prior: (i) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28.58-.040, part. (ii) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693–25, part; prior: 1909 c 97 p 265 § 2, part. Formerly RCW 28.57.135; 28.58.010.]

28A.58.020 Liability for debts and judgments. Every school district shall be liable for any debts legally due, and for judgments against the district, and such district shall pay any such judgment or liability out of the proper school funds to the credit of the district. [1969 ex.s. c 223 § 28A.58.020. Prior: 1909 c 97 p 287 § 4; RRS § 4779; prior: 1897 c 118 § 41; 1890 p 365 § 27. Formerly RCW 28.58.020.]

28A.58.030 Gifts, conveyances, etc., for scholarship and student aid purposes, receipt and administration. The board of directors of any school district may accept, receive and administer for scholarship and student aid purposes such gifts, grants, conveyances, devises and bequests of personal or real property, in trust or otherwise, for the use or benefit of the school district or its students; and sell, lease, rent or exchange and invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof, if any, for the foregoing purposes; and enter into contracts and adopt regulations deemed necessary by the board to provide for the receipt and expenditure of the foregoing. [1974 ex.s. c 8 § 1.]

28A.58.040 Conveyance and acquisition of property—Management. The board of directors of each school district shall have exclusive control of all school

property, real or personal, belonging to the district; said board shall have power, subject to RCW 28A.58.045, in the name of the district, to convey by deed all the interest of their district in or to any real property of the district which is no longer required for school purposes. Except as otherwise specially provided by law, and RCW 28A.58.045, the board of directors of each school district may purchase, lease, receive and hold real and personal property in the name of the district, and rent or sell the same, and all conveyances of real estate made to the district shall vest title in the district. [1969 ex.s. c 223 § 28A.58.040. Prior: (i) 1947 c 266 § 6, part; Rem. Supp. 1947 § 4693–25, part; prior: 1909 p 265 § 2, part. Formerly RCW 28.57.135, part. (ii) 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(3) and (5), part. (iii) 1909 c 97 p 287 § 7, part; RRS § 4782, part; prior: 1897 c 118 § 44, part; 1891 c 127 § 11, part; 1890 p 366 § 30, part. Formerly RCW 28.58.040.]

28A.58.0401 School district associations, right to mortgage or convey money security interest in association property—Limitations. Any association established by school districts pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW for the purpose of jointly and cooperatively purchasing school supplies, materials and equipment, if otherwise authorized for school district purposes to purchase personal or real property, is hereby authorized, subject to rules and regulations of the state board of education, to mortgage, or convey a purchase money security interest in real or personal property of such association of every kind, character or description whatsoever, or any interest in such personal or real property: *Provided*, That any such association shall be prohibited from causing any creditor of the association to acquire any rights against the property, properties or assets of any of its constituent school districts and any creditor of such association shall be entitled to look for payment of any obligation incurred by such association solely to the assets and properties of such association. [1975-'76 2nd ex.s. c 23 § 1.]

28A.58.041 Schoolhouses, teachers' cottages—Purchase of realty for district purposes—Second class districts. See RCW 28A.60.181.

28A.58.043 School property used for public purposes—Second and third class districts. See RCW 28A.60.190 through 28A.60.220.

28A.58.044 Real property—Annexation to city or town. In addition to other powers and duties as provided by law, every board of directors, if seeking to have school property annexed to a city or town and if such school property constitutes the whole of such property in the annexation petition, shall be allowed to petition therefor under RCW 35.13.125 and 35.13.130. [1971 c 69 § 3.]

Severability—1971 c 69: See note following RCW 35.13.125.

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.58.0461 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, the equipping or furnishing of school district buildings or grounds, or the acquisition of improved or unimproved real property: *Provided*, That such acquisition shall be made only in contemplation of using such improved or unimproved real property for school district purposes. [1975-'76 2nd ex.s. c 80 § 1; 1975 1st ex.s. c 243 § 2.]

28A.58.047 Expenditure of funds on county, city building authorized—Conditions. Notwithstanding any other provision of law, every school district board of directors may expend local funds held for capital projects or improvements for improvements on any building owned by a city or county in which the district or any part thereof is located if an agreement is entered into with such city or county whereby the school district receives a beneficial use of such building commensurate to the amount of funds expended thereon by the district. [1971 ex.s. c 238 § 3.]

28A.58.048 Permitting use and rental of playgrounds, athletic fields or athletic facilities. Boards of directors of school districts are hereby authorized to permit the use of, and to rent school playgrounds, athletic fields, or athletic facilities, by, or to, any person or corporation for any athletic contests or athletic purposes.

Permission to use and/or rent said school playgrounds, athletic fields, or athletic facilities shall be for such compensation and under such terms as regulations of the board of directors adopted from time to time so provide. [1969 ex.s. c 223 § 28A.58.048. Prior: (i) 1935 c 99 § 1; Rem. Supp. § 4776-1. Formerly RCW 28.58.048. (ii) 1935 c 99 § 2; RRS § 4776-2. Formerly RCW 28.58.050.]

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.58.055 Purchase of works of art—Procedure. The state board of education and superintendent of public instruction shall allocate, as a nondeductible item, out of any moneys appropriated for state assistance to school districts for the original construction of any school plant facility the amount of one-half of one percent of the appropriation for the acquisition of works of art which may be an integral part of the structure, attached to the

structure, detached within or outside of the structure, or can be exhibited in other public facilities by the school district. In case the amount shall not be required in toto or in part for any project, such unrequired amounts may be accumulated and expended for art in other projects of the school district. The Washington state arts commission shall, in consultation with the superintendent of public instruction, determine the amount to be made available for the purchase of works of art for each such project, and payments therefor shall be made in accordance with law. The selection of, commissioning of artist for, reviewing of design, execution and placement of, and the acceptance of works of art shall be the responsibility of the Washington state arts commission in consultation with the superintendent of public instruction and the school district board of directors. Expenditures for works of art as provided for herein shall be contracted for separately from all other items in the original construction of any state building. In addition to the cost of the works of art the one-half of one percent of the appropriation as provided herein shall be used to provide for the administration by the contracting agency, the architect, and Washington state arts commission and all costs for installation of the work of art. For the purpose of this section building shall not include sheds, warehouses or other buildings of a temporary nature. [1974 ex.s. c 176 § 5.]

Acquisition of works of art for use in public buildings: RCW 43.46.090.

Agencies to expend moneys for acquisition of works of art—Conditions: RCW 43.17.200.

28A.58.060 Schoolhouse sites, acquisition of state school lands for—Limitations. See RCW 79.01.096 and 79.01.770.

28A.58.070 Eminent domain. The board of directors of any school district may proceed to condemn and appropriate not more than fifteen acres of land for any elementary school purpose; not more than twenty-five acres for any junior high school purpose; not more than forty acres for any senior high school purpose; except as otherwise provided by law, not more than seventy-five acres for any vocational technical school purpose; and not more than fifteen acres for any other school district purpose. Such condemnation proceedings shall be in accordance with chapters 8.16 and 8.25 RCW and such other laws of this state providing for appropriating private property for public use by school districts. [1969 ex.s. c 223 § 28A.58.070. Prior: 1963 c 41 § 1; 1957 c 155 § 1; 1949 c 54 § 1; 1909 c 97 p 289 § 13; Rem. Supp. 1949 § 4788. Formerly RCW 28.58.070.]

28A.58.075 Joint educational facilities, services or programs—Rules and regulations—Apportionment of attendance credit. Any school district may cooperate with one or more school districts in the following:

(1) The joint financing, planning, construction, equipping and operating of any educational facility otherwise authorized by law: *Provided*, That any cooperative financing plan involving the construction of school plant

facilities must be approved by the state board of education pursuant to such rules as may now or hereafter be promulgated relating to state approval of school construction.

(2) The joint maintenance and operation of educational programs or services (a) either as a part of the operation of a joint facility or otherwise, (b) either on a full or part time attendance basis, and (c) either on a regular one hundred eighty day school year or extended school year: *Provided*, That any such joint program or service must be operated pursuant to a written agreement approved by the superintendent of public instruction pursuant to rules and regulations promulgated therefor. In establishing rules and regulations the state superintendent shall consider, among such other factors as he deems appropriate, the economic feasibility of said services and programs, the educational and administrative scope of said agreement and the need for said programs or services.

Notwithstanding any other provision of the law, the state superintendent of public instruction shall establish rules and regulations for the apportionment of attendance credits for such students as are enrolled in a jointly operated facility or program, including apportionment for approved part time and extended school year attendance. [1969 c 130 § 12. Like section formerly RCW 28.58.075.]

Conditional sales contracts for acquisition of property or property rights: RCW 28A.58.550.

Education of handicapped children: RCW 28A.13.030.

28A.58.080 Summer and/or other student vacation period programs—Authorized—Tuition and fees. Every school district board of directors is authorized to establish and operate summer and/or other student vacation period programs and to assess such tuition and special fees as it deems necessary to offset the maintenance and operation costs of such programs in whole or part. A summer and/or other student vacation period program may consist of such courses and activities as the school district board shall determine to be appropriate: *Provided*, That such courses and activities shall not conflict with the provisions of RCW 28A.04.120, as now or hereafter amended. Attendance shall be voluntary. [1974 ex.s. c 161 § 1.]

28A.58.090 Student learning objectives, program identifying and establishing—Scope. Every school district board of directors, being accountable to the citizens within its district as to the education offered to the students therein, on or before September 1, 1977, by rule and regulation, shall develop a program identifying student learning objectives for their district for grades kindergarten through eight in the areas of language arts, reading, and math, and initiate implementation of such program on or before September 1, 1978: *Provided*, That the school district must evidence community participation in defining the objectives of such a program: *Provided further*, That nothing in this section shall be deemed to exclude those courses made mandatory under chapter 28A.05 RCW or courses prescribed for study by the state board of education under RCW 28A.04.120.

Such program of student learning objectives shall assure that the district's resources in such educational program, such as money, facilities, time, materials and personnel, shall be utilized so as to provide both economies in management and operation, and quality education in the aforesaid areas: *Provided further*, That such learning objectives shall be measurable as to the actual student attainment and evaluated at least annually.

The state board of education shall examine the programs in each school district in the state for reasons of program approval as required in accordance with RCW 28A.41.130, as now or hereafter amended.

School districts may obtain assistance in carrying out their duties under this section from the educational service district of which they are a part. [1975-'76 2nd ex.s. c 90 § 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 authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, superintendent of public instruction and state board of education rules and regulations and rules and regulations of the school district.

(3) Suspend, expel, or discipline pupils in accordance with RCW 28A.04.132. [1975-'76 2nd ex.s. c 97 § 2; 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.58.1011 Government of schools, pupils, employees, rules and regulations for—To insure optimum learning atmosphere. The rules adopted pursuant to RCW 28A.58.101 shall be interpreted to insure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere. [1972 ex.s. c 142 § 5.]

28A.58.102 School buildings, maintenance, furnishing and insuring. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Cause all school buildings to be properly heated, lighted and ventilated and maintained in a clean and sanitary condition; and

(2) Maintain and repair, furnish and insure such school buildings. [1969 ex.s. c 223 § 28A.58.102. 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(3), part, and (4) part.]

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.58.104 Operation and stocking of libraries. Every board of directors shall provide for the operation and stocking of such libraries as the board deems necessary for the proper education of the district's students or as otherwise required by law or rule or regulation of the superintendent of public instruction or the state board of education. [1969 ex.s. c 223 § 28A.58.104. Prior: (i) 1909 c 97 p 299 § 7; RRS § 4817. Formerly RCW 28.63.040. (ii) 1909 c 97 p 302 § 7; RRS § 4829. Formerly RCW 28.63.042.]

28A.58.105 Night schools, summer schools, meetings, use of facilities for. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Authorize school facilities to be used for night schools and establish and maintain the same whenever deemed advisable;

(2) Authorize school facilities to be used for summer schools or for meetings, whether public, literary, scientific, religious, political, mechanical, agricultural or whatever, upon approval of the board under such rules or regulations as the board of directors may adopt, which rules or regulations may require a reasonable rental for the use of such facilities. [1969 ex.s. c 223 § 28A.58.105. 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(10) and (12).]

28A.58.106 Transporting of children to school or school activities—Insurance. See RCW 28A.24.055.

28A.58.107 Commencement exercises—Lip reading instruction—Joint purchasing, including issuing interest bearing warrants—Budgets. Every board of directors, unless otherwise specifically provided by law, shall:

(1) Provide for the expenditure of a reasonable amount for suitable commencement exercises;

(2) In addition to providing free instruction in lip reading for children handicapped by defective hearing, make arrangements for free instruction in lip reading to adults handicapped by defective hearing whenever in its judgment such instruction appears to be in the best interests of the school district and adults concerned;

(3) Join with boards of directors of other school districts in buying supplies, equipment and services by establishing and maintaining a joint purchasing agency, or otherwise, when deemed for the best interests of the district, any joint agency formed hereunder being herewith authorized and empowered to issue interest bearing warrants in payment of any obligation owed: *Provided, however,* That those agencies issuing interest bearing warrants shall assign accounts receivable in an amount equal to the amount of the outstanding interest bearing warrants to the county treasurer issuing such interest bearing warrants: *Provided further,* That the joint purchasing agency may cooperate with and jointly make purchases with private schools of educational supplies, equipment, and services so long as such private schools pay their proportionate share of the costs involved in such purchases; and

(4) Prepare budgets as provided for in chapter 28A.65 RCW. [1971 c 26 § 1; 1969 c 53 § 2; 1969 ex.s. c 223 § 28A.58.107. 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; 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(7), (13) and (14).]

28A.58.110 Bylaws for board and school government. Every board of directors shall have power to make such bylaws for their own government, and the government of the common schools under their charge, as they deem expedient, not inconsistent with the provisions of this title, or rules and regulations of the superintendent of public instruction or the state board of education. [1969 ex.s. c 223 § 28A.58.110. Prior: 1909 c 97 p 287 § 6; RRS § 4781; prior: 1897 c 118 § 43; 1890 p 366 § 29. Formerly RCW 28.58.110.]

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. 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.58.125 Interscholastic athletic and other extracurricular activities for students, regulation of—Delegation, conditions. Each school district board of directors is hereby granted and shall exercise the authority to control, supervise and regulate the conduct of interschool athletic activities and other interschool extracurricular activities of an athletic, cultural, social or recreational nature for students of the district. A board of directors may delegate control, supervision and regulation of any

such activity to the Washington Interscholastic Activities Association or any other voluntary nonprofit entity and compensate such entity for services provided, subject to the following conditions:

(1) The voluntary nonprofit entity shall submit an annual report to the state board of education of student appeal determinations, assets, and financial receipts and disbursements at such time and in such detail as the state board shall establish by rule;

(2) The voluntary nonprofit entity shall not discriminate in connection with employment or membership upon its governing board, or otherwise in connection with any function it performs, on the basis of race, creed, national origin, sex or marital status;

(3) Any rules and policies applied by the voluntary nonprofit entity which govern student participation in any interschool activity shall be written and subject to the annual review and approval of the state board of education at such time as it shall establish;

(4) All amendments and repeals of such rules and policies shall be subject to the review and approval of the state board; and

(5) Such rules and policies shall provide for notice of the reasons and a fair opportunity to contest such reasons prior to a final determination to reject a student's request to participate in or to continue in an interschool activity. Any such decision shall be considered a decision of the school district conducting the activity in which the student seeks to participate or was participating and may be appealed pursuant to RCW 28A.88.010 through 28A.88.015, as now or hereafter amended. [1975-'76 2nd ex.s. c 32 § 1.]

28A.58.135 Advertising for bids—Bid procedure—Telephone solicitation, limitations—Emergencies—Rules and regulations. (1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of thirty-five hundred dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: *Provided*, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of thirty-five hundred dollars. The cost of any public work, improvement or repair for the purposes of this section 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. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) (a) In lieu of the procedure described in subsection (1) of this section, bids may be solicited by telephone from a list of bidders prequalified in accordance with rules adopted by the superintendent of public instruction. Telephone solicitation shall not be used for purchases costing more than seventy-five hundred dollars or for building improvements, repairs, or books. Telephone solicitation may be used for bids for all other materials, furniture, supplies, equipment, and other purchases up to a cost of seventy-five hundred dollars.

(b) If bids are solicited by telephone, no award shall be made until at least three competitive bids have been received. After an award is made, the three or more bids shall be posted or otherwise made available at the office of the board or any other officially designated location.

(c) All bidders shall confirm their telephone bids in writing to the board within seven days after bid date. Any bidder not making such written confirmation shall be subject to removal from the qualified bidders list at the discretion of the board.

(3) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911: *Provided*, That when bids have been solicited by telephone and there is reason to believe that the lowest acceptable bid is not the best obtainable, all bids may be rejected, and the board may call for new bids. Any or all bids may be rejected for good cause. On any work or purchase the board shall provide bidding information to any qualified bidder or his agent, requesting it in person.

(4) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: *Provided*, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

(5) The superintendent of public instruction, in accordance with the administrative procedure act, chapter 34.04 RCW, shall adopt rules and regulations to implement the provisions of this section. [1975-'76 2nd ex.s. c 26 § 1; 1969 ex.s. c 49 § 2; 1969 ex.s. c 223 § 28A.58.135. Prior: 1961 c 224 § 1. Formerly RCW 28.58.135.]

28A.58.136 Lunchrooms—Establishment and operation—Personnel for. The directors of any school district may establish, equip and operate lunchrooms in school buildings for pupils, certificated and noncertificated employees, and for school or employee functions: *Provided*, That the expenditures for food supplies shall not exceed the estimated revenues from the sale of lunches, federal lunch aid, Indian education fund lunch aid, or other anticipated revenue, including donations, to be received for that purpose: *Provided further*, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals to elderly persons at cost as

provided in RCW 28A.58.722. Operation for the purposes of this section shall include the employment and discharge for sufficient cause of personnel necessary for preparation of food or supervision of students during lunch periods and fixing their compensation, payable from the district general fund, or entering into agreement for the preparation and service of food by a private agency. [1973 c 107 § 2; 1969 ex.s. c 223 § 28A.58.136. Prior: (i) 1947 c 31 § 1; 1943 c 51 § 1; 1939 c 160 § 1; Rem. Supp. 1947 § 4706-1. Formerly RCW 28.58.260. (ii) 1943 c 51 § 2; Rem. Supp. 1943 § 4706-2. Formerly RCW 28.58.270.]

Nonprofit meal program for elderly—Purpose: RCW 28A.58.720.

28A.58.137 Employment of superintendent—Superintendent's qualifications, general powers, term, contract renewal. In all districts the board of directors shall elect a superintendent who shall have such qualification as the local school board alone shall determine. The superintendent 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 of contracts of school superintendents the provisions of RCW 28A.67.070, 28A.67.074 and 28A.88.010 shall be inapplicable. [1975-'76 2nd ex.s. c 114 § 10; 1975 2nd ex.s. c 15 § 10. Prior: 1975 1st ex.s. c 254 § 2; 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.]

Savings—1975-'76 2nd ex.s. c 114: "Nothing in this 1976 amendatory act shall be construed to annul or to modify or to preclude the continuation of any lawful agreement entered into prior to the effective date of this 1976 amendatory act." [1975-'76 2nd ex.s. c 114 § 11.]

Severability—1975-'76 2nd ex.s. c 114: "If any provision of this 1976 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-'76 2nd ex.s. c 114 § 12.]

The above annotations apply to RCW 28A.58.137, 28A.58.450, 28A.58.455, 28A.58.480, 28A.58.490, 28A.58.515, 28A.67.065, 28A.67.070, 28A.67.072 and 28A.67.073.

28A.58.138 Law against discrimination applicable to districts' employment practices. See RCW 28A.02.050.

28A.58.140 Directors' and superintendents' signatures filed with auditor. Every school district director and school district superintendent, on assuming the duties of his office, shall place his signature, certified to by some school district official, on file in the office of the county auditor. [1969 ex.s. c 223 § 28A.58.140. Prior: 1909 c

97 p 289 § 12; RRS § 4787; prior: 1897 c 118 § 61; 1890 p 380 § 70. Formerly RCW 28.58.140.]

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 October 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-'76 2nd ex.s. c 118 § 30; 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—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.58.170 Officials and employees to deliver books, papers and moneys to successors. Every school official and employee, prior to termination of office or employment, shall deliver to his successor all books, papers and moneys pertaining to his office or employment. [1969 ex.s. c 223 § 28A.58.170. Prior: 1909 c 97 p 288 § 10; RRS § 4785; prior: 1897 c 118 § 60; 1890 p 386 § 69. Formerly RCW 28.58.170.]

28A.58.180 Minimum annual school term. All school districts in this state shall maintain school at least one hundred eighty days each school year as defined in RCW 28A.01.020: *Provided*, That for kindergartens the minimum annual term may be ninety days for each school year, as approved by the state board of education pursuant to rules and regulations promulgated for that purpose. [1972 ex.s. c 105 § 3; 1969 ex.s. c 223 § 28A.58.180. Prior: 1909 c 97 p 263 § 7; RRS § 4691; prior: 1903 c 104 § 23; 1897 c 118 § 70. Formerly RCW 28.58.180.]

Effective date—**Severability**—1972 ex.s. c 105: See notes following RCW 28A.35.010.

28A.58.190 Qualification for admission to district's schools. Except as otherwise provided by law, common schools shall be open to the admission of all persons between the ages of six and twenty-one years residing in that school district. [1969 ex.s. c 223 § 28A.58.190. Prior: 1909 c 97 p 261 § 1, part; RRS § 4680, part; prior: 1897 c 118 § 64, part; 1890 p 371 § 44, part. Formerly RCW 28.58.190 part, 28.01.060.]

28A.58.200 Pupils to comply with rules and regulations. All pupils who attend the common schools shall comply with the rules and regulations established in pursuance of the law for the government of the schools, shall pursue the required course of studies, and shall submit to the authority of the teachers of such schools, subject to such disciplinary or other action as the local school officials shall determine. [1969 ex.s. c 223 § 28A.58.200. Prior: 1909 c 97 p 263 § 6; RRS § 4690; prior: 1897 c 118 § 69; 1890 p 372 § 48. Formerly RCW 28.58.200.]

28A.58.201 Principal to assure appropriate student discipline. Within each school the school principal shall determine that appropriate student discipline is established and enforced. [1975-'76 2nd ex.s. c 97 § 3.]

28A.58.205 Part time students—Defined—Enrollment authorized—Reimbursement for costs—Funding authority recognition—Rules, regulations. See RCW 28A.41.145.

28A.58.210 Children on United States reservations, admission to schools—United States authorities to cooperate. Any child who is of school age and otherwise eligible residing within the boundaries of any military, naval, lighthouse, or other United States reservation, national park or national forest or residing upon rented or leased undeeded lands within any Indian reservation within the state of Washington, shall be admitted to the public school, or schools, of any contiguous district without payment of tuition: *Provided*, That the United States authorities in charge of such reservation or park shall cooperate fully with state, county, and school district authorities in the enforcement of the laws of this state relating to the compulsory attendance of children of school age, and all laws relating to and regulating school attendance. [1969 ex.s. c 223 § 28A.58.210. Prior: 1945 c 141 § 10; 1933 c 28 § 10; 1925 ex.s. c 93 § 1; Rem. Supp. 1945 § 4680-1. Formerly RCW 28.58-.210, 28.27.140.]

28A.58.215 Children on United States reservations, admission to schools—Census by school district superintendent of contiguous district. It shall be the duty of the school district superintendent of a school district contiguous to any United States military, naval or lighthouse reservation or national park in which the majority of children residing within such reservation or park attend, to take a census of the children residing within such reservation or park at the time of taking the census of the school children of his district as otherwise provided by law and to report such census in the manner provided by law for reporting the school census of his district. [1969 ex.s. c 223 § 28A.58.215. Prior: 1925 ex.s. c 93 § 3; RRS § 4680-3. Formerly RCW 28.58.215.]

28A.58.220 Reimbursing district for educating children of employees of municipal light plant. Any city operating a public utility pursuant to the provisions of RCW 35.92.050, with a plant for the generation of electricity located within the limits of any school district outside of the corporate limits of such city which shall cause any loss of revenues and/or increase the financial burden of any such school district affected because of an increase in the number of pupils by reason of the operation of such generating facility, shall provide for recompensing such losses or alleviating such financial burden through agreement with such school district in accordance with the provisions of RCW 35.21.425 through 35.21.427. [1969 ex.s. c 223 § 28A.58.220. Prior: 1929 c 77 § 1; RRS § 4680-5. Formerly RCW 28.58.220.]

City or town acquiring electrical utilities may pay taxing districts in amount of prior taxes paid: RCW 35.21.430.

City taking over utility plant may help pay outstanding bonded indebtedness of school district: RCW 35.21.440.

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.58.230 Admission of out-of-district pupils tuition free, when. Every school district shall admit on a tuition free basis all persons of school age who reside within this state, and do not reside within another school district carrying the grades for which they are eligible to enroll: *Provided*, That nothing in this section shall be construed as affecting RCW 28A.44.040, 28A.58.240 or 28A.58.245. [1969 c 130 § 9; 1969 ex.s. c 223 § 28A-.58.230. Prior: 1917 c 21 § 9; RRS § 4718. Formerly RCW 28.58.230.]

Education of handicapped children: RCW 28A.13.040.

28A.58.240 Adults, children from other districts, agreements for attending school—Tuition. Any board of directors may make agreements with adults wishing to attend school or with the directors of other districts for the attendance of children in the school district of either as may be best accommodated therein: *Provided*, That unless such arrangements are approved by the state superintendent of public instruction, a reasonable tuition charge, fixed by the state superintendent of public instruction, shall be paid by such students. All tuition money must be paid over to the county treasurer within thirty days of its collection for the credit of the district in which such students attend.

Reimbursement of a high school district for cost of educating high school pupils of a nonhigh school district shall not be deemed a tuition charge as affecting the apportionment of current state school funds. [1969 c 130 § 10; 1969 ex.s. c 223 § 28A.58.240. Prior: 1963 c 47 § 2; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28.58.240.]

Education of handicapped children: RCW 28A.13.030, 28A.13.040.

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 non-resident 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.58.245 Voluntary, tuition free attendance programs among school districts, scope—Rules and regulations. Notwithstanding any other provision of law, the state superintendent of public instruction is directed and authorized to develop and adopt rules and regulations to implement such voluntary, tuition free attendance programs among school districts that he deems necessary for the expressed purpose of:

(1) Providing educational opportunities, including vocational skills programs, not otherwise provided;

(2) Avoiding unnecessary duplication of specialized or unusually expensive educational programs and facilities; or

(3) Improving racial balance within and among school districts: *Provided*, That no voluntary, tuition free attendance program among school districts developed by the superintendent of public instruction shall be instituted unless such program receives the approval of the boards of directors of the districts. [1969 c 130 § 11. Like section formerly RCW 28.58.245.]

Education of handicapped children: RCW 28A.13.030, 28A.13.040.
School district vocational education programs—Scope—Rules and regulations: RCW 28A.09.100.

28A.58.247 Community education programs—Restrictions. Notwithstanding the provisions of RCW 28B.50.250, 28B.50.530 or any other law, rule, or regulation, any school district is authorized to provide community education programs in the form of instructional, recreational and/or service programs on a noncredit and nontuition basis, excluding fees for supplies, materials, or instructor costs, for the purpose of stimulating the full educational potential and meeting the needs of the district's residents of all ages, and making the fullest use of the district's school facilities: *Provided*, That such programs shall be consistent with rules and regulations promulgated by the state superintendent of public instruction governing cooperation between common schools, community college districts, and other civic and governmental organizations which shall have been developed in cooperation with the state board for community college education and shall be programs receiving the approval of said superintendent: *Provided further*, That no state funds appropriated to the common schools or the superintendent of public instruction's office shall be used to begin new community education programs or expand existing community education programs. [1973 c 138 § 1.]

Cooperation mandated between common school and community college districts: RCW 28C.04.070.

28A.58.250 Reciprocity exchanges with other states.

If the laws of another state permit its school districts to extend similar privileges to pupils resident in this state, the board of directors of any school district contiguous to a school district in such other state may make agreements with the officers of the school district of that state for the attendance of any pupils resident therein upon the payment of tuition.

If a district accepts out-of-state pupils whose resident district is contiguous to a Washington school district, such district shall charge and collect the cost for educating such pupils and shall not include such out-of-state pupils in the computation of the district's share of state and/or county funds.

The board of directors of any school district which is contiguous to a school district in another state may make agreements for and pay tuition for any children of their district desiring to attend school in the contiguous district of the other state. The tuition to be paid for the attendance of resident pupils in an out-of-state school as provided in this section shall be no greater than the cost of educating such elementary or secondary pupils, as the case may be, in the out-of-state educating district. [1969 ex.s. c 223 § 28A.58.250. Prior: 1963 c 47 § 3; prior: 1921 c 44 § 1, part; 1899 c 142 § 8, part; RRS § 4780, part. Formerly RCW 28.58.250.]

Education of handicapped children: RCW 28A.13.030.

28A.58.275 Lunch period for certificated employees—Supervision by noncertificated personnel. All certificated employees of school districts shall be allowed a reasonable lunch period of not less than thirty continuous minutes per day during the regular school lunch periods and during which they shall have no assigned duties.

Any school district may employ noncertificated personnel to supervise school children in noninstructional activities during regular school lunch periods. [1969 ex.s. c 223 § 28A.58.275. Prior: 1965 c 18 § 1. Formerly RCW 28.58.275.]

28A.58.310 Reimbursement of expenses of directors, superintendents or other school representatives—Advancing anticipated expenses. The actual expenses of school directors in going to, returning from and attending upon directors' meetings or other meetings called or held pursuant to statute shall be paid. Likewise, the expenses of school superintendents and other school representatives chosen by the directors to attend any conferences or meetings or to attend to any urgent business at the behest of the state superintendent of public instruction or the board of directors shall be paid. The school directors, school superintendents or other school representatives 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. [1969 ex.s. c 26 § 2; 1969 ex.s. c 223 § 28A.58.310. Prior: 1961 c 268 § 15; prior: 1919 c 90 § 6, part; 1909 c 97 p 287 § 8, part; RRS § 4783, part. Formerly RCW 28.58.310.]

28A.58.370 Special meetings of voters—Authorized—Purpose. Any board of directors at its discretion may, and, upon a petition of a majority of the legal voters of their district, shall call a special meeting of the voters of the district, to determine the length of time in excess of the minimum length of time prescribed by law that such school shall be maintained in the district during the year; to determine whether or not the district shall purchase any schoolhouse site or sites, and to determine the location thereof; or to determine whether or not the district shall build one or more schoolhouses or school facilities; or to determine whether or not the district shall maintain one or more free kindergartens; or to determine whether or not the district shall sell any real or personal property belonging to the district, borrow money or establish and maintain a school district library. [1969 ex.s. c 223 § 28A.58.370. Prior: 1909 c 97 p 349 § 1; RRS § 5028; prior: 1901 c 177 § 18; 1897 c 118 § 156. Formerly RCW 28.58.370.]

28A.58.380 Special meetings of voters—Place, notice, procedure, record. All such special meetings shall be held at such schoolhouse or place as the board of directors may determine. The voting shall be by ballot, the ballots to be of white paper of uniform size and quality. At least ten days' notice of such special meeting shall be given by the school district superintendent, in the manner that notice is required to be given of the annual school election, which notice shall state the object or objects for which the meeting is to be held, and no other business shall be transacted at such meeting than such as is specified in the notice. The school district superintendent shall be the secretary of the meeting, and the chairman of the board of directors or, in his absence, the senior director present, shall be chairman of the

meeting: *Provided*, That in the absence of one or all of said officials, the qualified electors present may elect a chairman or secretary, or both chairman and secretary, of said meeting as occasion may require, from among their number. The secretary of the meeting shall make a record of the proceedings of the meeting, and when the secretary of such meeting has been elected by the qualified voters present, he shall within ten days thereafter, file the record of the proceedings, duly certified, with the superintendent of the district, and said records shall become a part of the records of the district, and be preserved as other records. [1969 ex.s. c 223 § 28A.58.380. Prior: 1909 c 97 p 350 § 2; RRS § 5029; prior: 1897 c 118 § 157. Formerly RCW 28.58.380, 28.58.390, part.]

28A.58.390 Special meetings of voters—Directors to follow electors' decision. It shall be the duty of every board of directors to carry out the directions of the electors of their districts as expressed at any such meeting. [1969 ex.s. c 223 § 28A.58.390. Prior: 1909 c 97 p 350 § 3; RRS § 5030; prior: 1897 c 118 § 158. Formerly RCW 28.58.390.]

28A.58.400 Parental schools—Powers to lease or sell facilities. See RCW 43.51.230 and 72.05.300.

28A.58.420 Liability, life, health, health care, accident, disability and salary insurance authorized—Premiums. The board of directors of any of the state's school districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district, and their dependents. Whenever funds shall be available for these purposes the board of directors of the school district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts and their dependents. The premiums on such liability insurance shall be borne by the school district. The premiums due on such protection or insurance shall be borne by the assenting school board member or student. All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57 and 18.71 RCW. [1973 1st ex.s. c 9 § 1; 1971 ex.s. c 269 § 2; 1971 c 8 § 3; 1969 ex.s. c 237 § 3; 1969 ex.s. c 223 § 28A.58.420. Prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28.76.410, part.]

Severability—1971 ex.s. c 269: "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 269 § 4.] This applies to RCW 28A.58.420, 28A.58.425 and 28B.10.660.

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.58.423 Liability insurance for officials and employees authorized. The board of directors of each school district may purchase liability insurance with such limits as they may deem reasonable for the purpose of protecting their officials and employees against liability for personal or bodily injuries and property damage arising from their acts or omissions while performing or in good faith purporting to perform their official duties. [1973 c 125 § 1.]

28A.58.425 Mandatory insurance protection for employees. Notwithstanding any other provision of law, after August 9, 1971 boards of directors of all school districts shall provide their employees with insurance protection covering those employees while engaged in the maintenance of order and discipline and the protection of school personnel and students and the property thereof when that is deemed necessary by such employees. Such insurance protection must include as a minimum, liability insurance covering injury to persons and property, and insurance protecting those employees from loss or damage of their personal property incurred while so engaged. [1971 ex.s. c 269 § 1.]

Severability—1971 ex.s. c 269: See note following RCW 28A.58.420.

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.58.435 Investment of idle building funds—Restrictions. The board of directors of any school district of the state of Washington which now has, or hereafter shall have, funds in the building fund of the district in the office of the county treasurer which in the judgment of said board are not required for the immediate necessities of the district, may invest and reinvest all, or any part, of such funds in United States securities, as hereinafter specified after and pursuant to a resolution adopted by the board, authorizing and directing the county treasurer, as ex officio the treasurer of said district, to invest or reinvest, said moneys or any designated amount thereof in United States securities and specifying the type or character of the United States securities in which said moneys shall be invested: *Provided*, That nothing herein authorized, or the type and character of the securities thus specified, shall have in itself the effect of delaying any program of building for which said funds shall have been authorized. Said funds and said securities and the profit and interest thereon, and the proceeds thereof, shall be held by the county treasurer to the credit and benefit of the building fund of the district in his said office. If in the judgment of the board it shall be necessary to redeem or to sell any of the purchased securities before their ultimate maturity date, the board may, by resolution, direct the county treasurer to cause such redemption to be had at the "Redemption Value" of said securities or to sell said bonds and securities at not less than market value and accrued interest. The foregoing "securities" shall include United States bonds, federal treasury notes and treasury bonds and United States certificates of indebtedness and other federal securities which may, during the life of this statute, come within the terms of this section. [1971 c 8 § 4. Prior: 1945 c 29 § 1.]

Severability—1971 c 8: "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 c 8 § 7.] This applies to RCW 28A.58.435, 28A.60.310 and 28A.98.012.

28A.58.440 Investment of funds of district not needed for immediate necessities—Service fee. The county treasurer, or the trustee, guardian, or any other custodian of any school fund, when authorized to do so by the board of directors of any school district, shall invest or reinvest any school funds of such district in savings or time accounts in banks, trust companies and mutual savings banks which are doing business in this state, up to the amount of insurance afforded such accounts by the Federal Deposit Insurance Corporation, or in accounts in savings and loan associations which are doing business in this state, up to the amount of insurance afforded such accounts by the Federal Savings and Loan Insurance Corporation, or any obligations, securities, certificates, notes, bonds, or short term securities or obligations, of the United States. The county treasurer shall have the power to select the particular investment in which said funds may be invested. All earnings and income from such investments shall inure to the benefit of any school fund designated by the board of directors of the school district which such board may lawfully

designate: *Provided*, That any interest or earnings being credited to a fund different from that which earned the interest or earnings shall only be expended for instructional supplies, equipment or capital outlay purposes. This section shall apply to all funds which may be lawfully so invested or reinvested which in the judgment of the school board are not required for the immediate necessities of the district.

Five percent of the interest or earnings, with an annual minimum of ten dollars or annual maximum of fifty dollars, on any transactions authorized by each resolution of the board of school directors shall be paid as an investment service fee to the office of county treasurer when the interest or earnings becomes available to the school district. [1969 ex.s. c 223 § 28A.58.440. Prior: 1965 c 111 § 1; 1961 c 123 § 1. Formerly RCW 28.58.440.]

Investment of idle building funds—1945 act: See 1945 c 29 § 1.
Mutual savings banks—Deposit or investment of public funds: RCW 32.12.100.

28A.58.442 Certified employees, conditions for contracts, nonrenewal of contracts. See RCW 28A.67.070, 28A.67.072, 28A.67.073.

28A.58.444 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty. See RCW 28A.67.065.

28A.58.445 Certificated employees, applicants for certificated position, not to be discriminated against—Right to inspect personnel file. The board of directors of any school district, its employees or agents shall not discriminate in any way against any applicant for a certificated position or any certificated employee

(1) On account of his membership in any lawful organization, or

(2) For the orderly exercise during off-school hours of any rights guaranteed under the law to citizens generally, or

(3) For family relationship, except where covered by chapter 42.23 RCW.

The school district personnel file on any certificated employee in the possession of the district, its employees, or agents shall not be withheld at any time from the inspection of that employee. [1969 ex.s. c 34 § 21. Like section formerly RCW 28.58.445.]

Code of ethics for municipal officers—Contract interests: Chapter 42.23 RCW.

28A.58.450 Adverse change in contract status of certificated employee—Determination of probable cause—Notice—Opportunity for hearing. In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such

action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices 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. Every such employee so notified, at his or her request made in writing and filed with the president, chairman of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW 28A.58.455 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.67.073 shall not be construed as a discharge or other adverse action against contract status for the purposes of this section. [1975-'76 2nd ex.s. c 114 § 2; 1973 c 49 § 1; 1969 ex.s. c 34 § 13; 1969 ex.s. c 223 § 28A.58.450. Prior: 1961 c 241 § 2. Formerly RCW 28.58.450.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty: RCW 28A.67.065.

RCW 28A.58.450 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

Transfer of administrator to subordinate certificated position—Procedure: RCW 28A.67.073.

28A.58.455 Adverse change in contract status of certificated employee, including nonrenewal of contract—Hearings—Procedure. (1) Any employee receiving a notice of probable cause for discharge or adverse effect in contract status pursuant to RCW 28A.58.450, as now or hereafter amended, or any employee, with the exception of provisional employees as defined in RCW 28A.67.072, receiving a notice of probable cause for nonrenewal of contract pursuant to RCW 28A.67.070, as now or hereafter amended, shall be granted the opportunity for a hearing pursuant to this section.

(2) In any request for a hearing pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, the employee may request either an open or closed hearing. The hearing shall be open or closed as requested by the employee, but if the employee fails to make such a request, the hearing officer may determine whether the hearing shall be open or closed.

(3) The employee may engage counsel who shall be entitled to represent the employee at the prehearing

conference held pursuant to subsection *(5) of this section and at all subsequent proceedings pursuant to this section. At the hearing provided for by this section, the employee may produce such witnesses as he or she may desire.

(4) In the event that an employee requests a hearing pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, a hearing officer shall be appointed in the following manner: Within ten days following the receipt of any such request the board of directors of the district or its designee and the employee shall each appoint one nominee, each of whom shall be a member in good standing of the Washington state bar association. Within five days following the appointment of such nominees they shall jointly appoint a hearing officer who shall be a member in good standing of the Washington state bar association. Should said nominees fail to agree as to who should be appointed as the hearing officer, either the board of directors or the employee, upon appropriate notice to the other party, may apply to the presiding judge of the superior court for the county in which the district is located for the appointment of such hearing officer, whereupon such presiding judge shall have the duty to appoint a hearing officer who shall be a member in good standing of the Washington state bar association and who shall, in the judgment of such presiding judge, be qualified to fairly and impartially discharge his or her duties. Nothing herein shall preclude the board of directors and the employee from stipulating as to the identity of the hearing officer in which event the foregoing procedures for the selection of the hearing officer shall be inapplicable. The district shall pay all fees and expenses of any hearing officer selected pursuant to this subsection.

(5) Within five days following the selection of a hearing officer pursuant to subsection (4) hereof, the board of directors or its designee shall schedule a prehearing conference to be held within such five day period. The employee shall be given written notice of the date, time, and place of such prehearing conference at least three days prior to the date established for such conference.

(6) The hearing officer shall preside at any prehearing conference scheduled pursuant to subsection (5) of this section and in connection therewith shall:

(a) Issue such subpoenas or subpoenas duces tecum as either party may request at that time or thereafter; and

(b) Authorize the taking of prehearing depositions at the request of either party at that time or thereafter; and

(c) Provide for such additional methods of discovery as may be authorized by the civil rules applicable in the superior courts of the state of Washington; and

(d) Establish the date for the commencement of the hearing, to be within ten days following the date of the prehearing conference, unless the employee requests a continuance, in which event the hearing officer shall give due consideration to such request.

(7) The hearing officer shall preside at any hearing and in connection therewith shall:

(a) Make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior courts of the state of Washington; and

(b) Make other appropriate rulings of law and procedure.

(8) Except as provided in subsection (9) of this section, the board of directors of the district shall have the following duties and responsibilities in connection with any hearing conducted pursuant to this section:

(a) Not less than a quorum of the board shall hear all of the evidence admitted during the hearing.

(b) At the conclusion of the hearing, board members who have heard all of the evidence shall deliberate in private and shall reach a final decision by vote of a majority of the members participating at the hearing.

(c) Written notice of the final decision of the board of directors shall be sent to the employee as promptly as possible and in no event later than ten days after the conclusion of the hearing.

(9) In lieu of the hearing procedures provided for in subsections (7) and (8) of this section, the board at the time it schedules the prehearing conference pursuant to subsection (5) of this section, may elect, if the employee consents, to have the hearing conducted by the hearing officer without board participation and if the board so elects, it shall give written notice thereof to the employee at or before the time of said prehearing conference. The hearing officer shall have the following duties at any hearing conducted by the hearing officer without board participation:

(a) The hearing officer shall make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior court of the state of Washington.

(b) The hearing officer shall make other appropriate rulings of law and procedure.

(c) Within ten days following the conclusion of the hearing the hearing officer shall transmit in writing to the board and to the employee, findings of fact and conclusions of law and final decision.

(10) Any final decision by the board or the hearing officer to nonrenew the employment contract of the employee, or to discharge the employee, or to take other action adverse to the employee's contract status, as the case may be, shall be based solely upon the cause or causes specified in the notice of probable cause to the employee and shall be established by a preponderance of the evidence at the hearing to be sufficient cause or causes for such action.

(11) All subpoenas and prehearing discovery orders shall be enforceable by and subject to the contempt and other equity powers of the superior court of the county in which the school district is located upon petition of any aggrieved party.

(12) A complete record shall be made of the hearing and all orders and rulings of the hearing officer and school board. [1975-'76 2nd ex.s. c 114 § 5.]

**Reviser's note:* Session law [1975-'76 2nd ex.s. c 114 § 5] language referred to prehearing conference held pursuant to "subsection (4) of this section"; since subsection (5) provided for such conference, reference has been so corrected.

*Savings—Severability—*1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

28A.58.460 Adverse change in contract status of certificated employee, including nonrenewal of contract—

Appeal from—Notice—Service—Filing—Contents. Any teacher, principal, supervisor, superintendent, or other certificated employee, desiring to appeal from any action or failure to act upon the part of a school board relating to the discharge or other action adversely affecting his contract status, or failure to renew that employee's contract for the next ensuing term, within thirty days after his or her receipt of such decision or order, may serve upon the chairman of the school board and file with the clerk of the superior court in the county in which the school district is located a notice of appeal which shall set forth also in a clear and concise manner the errors complained of. [1969 ex.s. c 34 § 14; 1969 ex.s. c 223 § 28A.58.460. Prior: 1961 c 241 § 3. Formerly RCW 28.58.460.]

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, including nonrenewal of contract—Appeal from—Certification and filing with court of transcript. The clerk of the superior court, within ten days of his receipt of the notice of appeal shall notify in writing the chairman of the school board of the taking of the appeal, and within twenty days thereafter the school board shall at its expense file the complete transcript of the evidence and the papers and exhibits relating to the decision complained of, all properly certified to be correct. [1969 ex.s. c 223 § 28A.58.470. Prior: 1961 c 241 § 4. Formerly RCW 28.58.470.]

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, including nonrenewal of contract—Appeal from—Scope. Any appeal to the superior court by an employee shall be heard by the superior court without a jury. Such appeal shall be heard expeditiously. The superior court's review shall be confined to the verbatim transcript of the hearing and the papers and exhibits admitted into evidence at the hearing, except that in cases of alleged irregularities in procedure not shown in the transcript or exhibits and in cases of alleged abridgment of the employee's constitutional free speech rights, the court may take additional testimony on the alleged procedural irregularities or abridgment of free speech rights. The court shall hear oral argument and receive written briefs offered by the parties.

The court may affirm the decision of the board or hearing officer or remand the case for further proceedings; or it may reverse the decision if the substantial rights of the employee may have been prejudiced because the decision was:

- (1) In violation of constitutional provisions; or
- (2) In excess of the statutory authority or jurisdiction of the board or hearing officer; or
- (3) Made upon unlawful procedure; or
- (4) Affected by other error of law; or
- (5) Clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or

(6) Arbitrary or capricious. [1975-'76 2nd ex.s. c 114 § 6; 1969 ex.s. c 34 § 15; 1969 ex.s. c 223 § 28A.58.480. Prior: 1961 c 241 § 5. Formerly RCW 28.58.480.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

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, including nonrenewal of contract—Appeal from—Costs, attorney's fee and damages. If the court enters judgment for the employee, and if the court finds that the probable cause determination was made in bad faith or upon insufficient legal grounds, the court in its discretion may award to the employee a reasonable attorney's fee for the preparation and trial of his appeal, together with his taxable costs in the superior court. If the court enters judgment for the employee, in addition to ordering the school board to reinstate or issue a new contract to the employee, the court may award damages for loss of compensation incurred by the employee by reason of the action of the school district. [1975-'76 2nd ex.s. c 114 § 7; 1969 ex.s. c 34 § 16; 1969 ex.s. c 223 § 28A.58.490. Prior: 1961 c 241 § 6. Formerly RCW 28.58.490.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

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, including nonrenewal of contract—Appeal from—To appellate court. Either party to the proceedings in the superior court may appeal the decision to the supreme court or the court of appeals of this state as any other civil action is appealed. [1971 c 81 § 71; 1969 ex.s. c 223 § 28A.58.500. Prior: 1961 c 241 § 7. Formerly RCW 28.58.500.]

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, including nonrenewal of contract—Appeal from—Other statutes not applicable. The provisions of chapter 28A.88 RCW shall not be applicable to RCW 28A.58.450 through 28A.58.500. [1969 ex.s. c 223 § 28A.58.510. Prior: 1961 c 241 § 8. Formerly RCW 28.58.510.]

RCW 28A.58.510 not applicable to contract renewal of school superintendents: RCW 28A.58.137.

28A.58.515 Adverse change in contract status of certificated employee, including nonrenewal of contract—Appeal from—Direct judicial appeal, when. In the event that an employee, with the exception of a provisional employee as defined in RCW 28A.67.072, receives a notice of probable cause pursuant to RCW 28A.58.450 or 28A.67.070, as now or hereafter amended, stating that by reason of a lack of sufficient funds or loss of levy election the employment contract of such employee should not be renewed for the next ensuing school term or that the same should be adversely affected, the

employee may appeal any said probable cause determination directly to the superior court of the county in which the school district is located. Such appeal shall be perfected by serving upon the secretary of the school board and filing with the clerk of the superior court a notice of appeal within ten days after receiving the probable cause notice. The notice of appeal shall set forth in a clear and concise manner the action appealed from. The superior court shall determine whether or not there was sufficient cause for the action as specified in the probable cause notice, which cause must be proven by a preponderance of the evidence, and shall base its determination solely upon the cause or causes stated in the notice of the employee. The appeal provided in this section shall be tried as an ordinary civil action: *Provided*, That the board of directors' determination of priorities for the expenditure of funds shall be subject to superior court review pursuant to the standards set forth in RCW 28A.58.480, as now or hereafter amended: *Provided further*, That the provisions of RCW 28A.58.490 and 28A.58.500, as now or hereafter amended, shall be applicable thereto. [1975-'76 2nd ex.s. c 114 § 8; 1973 c 49 § 3; 1969 ex.s. c 34 § 18. Like section formerly RCW 28.58.515.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

RCW 28A.58.515 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.58.518 Appeals by certificated employees governed by chapter 28A.88 RCW, when. See RCW 28A.88.010.

28A.58.520 Elections—Qualifications of electors—Voting place. Qualifications of electors at all school elections shall be the same as at a general state or county election. Except as otherwise provided by law, only those electors residing within the district shall be entitled to vote, and an elector may vote only at the polling place designated by the proper election official. [1969 ex.s. c 223 § 28A.58.520. Prior: 1941 c 12 § 1; Rem. Supp. 1941 § 5025-1. Formerly RCW 28.58.520.]

28A.58.521 Elections—Elections to be conducted according to Title 29 RCW. All school district elections, regular or special, shall be conducted according to the election laws of the state as contained in Title 29 RCW, and in the event of a conflict as to the application of the laws of this title or Title 29 RCW, the latter shall prevail. [1969 ex.s. c 223 § 28A.58.521. Prior: 1965 c 123 § 8. Formerly RCW 28.58.521.]

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.58.540 Periodicals, postage—Purchases of—Manner of payment. See RCW 42.24.035.

28A.58.550 Conditional sales contracts for acquisition of property or property rights. Any school district may execute an executory conditional sales contract with any other municipal corporation, the state or any of its political subdivisions, the government of the United States or any private party for the purchase of any real or personal property, or property rights, in connection with the exercise of any powers or duties which they now or hereafter are authorized to exercise, if the entire amount of the purchase price specified in such contract does not result in a total indebtedness in excess of the limitation authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters: *Provided*, That if such a proposed contract would result in a total indebtedness in excess of the limitation authorized by chapter 39.36 RCW, as now or hereafter amended, to be incurred without the assent of the voters, a proposition in regard to whether or not such a contract may be executed shall be submitted to the voters for approval or rejection in the same manner that bond issues for capital purposes are submitted to the voters: *Provided further*, That any school district may jointly with another school district execute contracts authorized by this section. [1970 ex.s. c 42 § 11; 1969 ex.s. c 223 § 28A.58.550. Prior: 1965 c 62 § 1. Formerly RCW 28.58.550.]

Severability—Effective date—1970 ex.s. c 42: See notes following RCW 39.36.015.

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.58.565 Pension benefits or annuity benefits for certain classifications of employees—Procedure. Notwithstanding any other provision of law, any school district shall have the authority to provide for all employees within an employment classification pension benefits or annuity benefits as may already be established and in effect by other employers of a similar classification of employees, and payment therefor may be made by making contributions to such pension plans or funds already established and in effect by the other employers and in which the school district is permitted to participate for such particular classifications of its employees by the trustees or other persons responsible for the administration of such established plans or funds.

Notwithstanding provisions of RCW 41.40.120(4), the coverage under such private plan shall not exclude such employees from simultaneous coverage under the Washington public employees' retirement system. [1972 ex.s. c 27 § 1.]

28A.58.570 Interfering by force or violence with any administrator, faculty member or student unlawful—Penalty. See RCW 28B.10.570, 28B.10.572 and 28B.10.573.

28A.58.571 Intimidating any administrator, faculty member or student by threat of force or violence unlawful—Penalty. See RCW 28B.10.571, 28B.10.572 and 28B.10.573.

28A.58.600 Change of district name—Authorized—Petition for. Any school district in the state, regardless of size or method of organization, may change its name in the following manner: Upon receipt of a petition signed by ten percent of the registered voters of the district, requesting that the name of the school district shall be changed and submitting with said request a proposed name, the school board shall accept or reject the petition within the time for the next two regular meetings. If the petition is rejected, the board's action shall not be appealed. [1969 ex.s. c 223 § 28A.58.600. Prior: 1967 ex.s. c 69 § 1. Formerly RCW 28.58.600.]

28A.58.601 Change of district name—Public hearing on—Notice of—Hearing may include additional petitions. If the petition is accepted, the board shall set a date for a public hearing thereon to be held within one month of the date of acceptance and cause notice thereof, together with the proposed new name to be published once a week for three consecutive weeks in a newspaper of general circulation within the school district: *Provided*, That additional petitions for change of name may be heard at the same public hearing without the necessity of additional publication of notice, so long as the additional proposed names are presented at any board meeting, whether special or regular, including at the public hearing. At the hearing any interested elector who is a resident of the school district may appear and speak for or against the propositions. [1969 ex.s. c 223 §

28A.58.601. Prior: 1967 ex.s. c 69 § 2. Formerly RCW 28.58.601.]

28A.58.602 Change of district name—Board selection of name for voter approval. Within two regular meetings after the public hearing the board shall select one name to present to the residents of the school district for their approval or rejection at the next special or general election. [1969 ex.s. c 223 § 28A.58.602. Prior: 1967 ex.s. c 69 § 3. Formerly RCW 28.58.602.]

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.58.610 Preparing and distributing information on district's instructional program, operation and maintenance—Limitation. The board of directors of any school district shall have authority to authorize the expenditure of funds for the purpose of preparing and distributing information to the general public to explain the instructional program, operation and maintenance of the schools of the district: *Provided*, That nothing contained herein shall be construed to authorize preparation and distribution of information to the general public for the purpose of influencing the outcome of a school district election. [1969 ex.s. c 283 § 11. Formerly RCW 28.58.610.]

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

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.58.700 Student financial assistance program—
Definitions. As used in RCW 28A.04.137 and 28A.58.700 through 28A.58.707:

(1) "Approved elementary school" shall mean a public or private school carrying out any or all of grades one through eight and approved by the state board of education as provided in RCW 28A.04.120(4).

(2) "Accredited secondary school" shall mean a public or private school carrying out any or all of grades nine through twelve and accredited by the state board of education as provided in RCW 28A.04.120(4).

(3) "Needy student" shall mean a student accepted at or attending an approved elementary or accredited secondary school who demonstrates to the state board of education the financial inability of such student's family to meet the total cost of supplies, books, tuition, and incidental and other fees for any school term. Board and room may be considered by the state board of education as a factor in financial inability only in those cases where living apart from the family is deemed necessary for the educational advancement of the student.

(4) "Disadvantaged student" shall mean a student attending an approved elementary or accredited secondary school who by reason of adverse cultural, educational, environmental, experimental, familial, or other circumstances is deemed by the state board of education as being highly probable of not continuing in the school the student is enrolled in either on a part or full time basis, without financial assistance. [1973 c 81 § 2.]

Severability—1973 c 81: "If any provision of this 1973 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 81 § 9.] This applies to RCW 28A.04.137, 28A.58.700, 28A.58.701, 28A.58.703, 28A.58.704, 28A.58.706 and 28A.58.707.

28A.58.701 Student financial assistance program—
Criteria for establishing need—Limits on grants. The state board of education shall determine and establish

criteria for ascertaining the financial need of the individual applicant. In making this determination the state board of education shall consider the following:

- (1) Assets and income of the student;
- (2) Assets and income of the parents or the individuals legally responsible for the care and maintenance of the student;
- (3) The cost of attending the school the student is attending or planning to attend; and
- (4) All other criteria deemed relevant to the state board of education.

The amount awarded by the state board of education to any one student in any one school year shall not exceed the financial gap between the budgetary cost of attending an approved elementary school or accredited secondary school in the state of Washington and the family and student contribution: *Provided*, That the maximum state grant of financial assistance shall not exceed in any one school year, including summer sessions, the sum of three hundred dollars per secondary student and one hundred dollars per elementary student: *Provided further*, That no student shall be granted financial assistance to attend a private school unless the financial assistance required from the state, after other scholarship grants and loans are deducted, is three hundred dollars per year or less per secondary student and one hundred dollars per year or less per elementary student: *And provided further*, That a substantial portion, and in any event not less than twenty-five percent of the students receiving assistance under the authority granted in RCW 28A.04.137 and 28A.58.700 through 28A.58.707, shall be students attending the public schools. [1973 c 81 § 3.]

Severability—1973 c 81: See note following RCW 28A.58.700.

28A.58.703 Student financial assistance program—
Priority basis—All funds disbursed. The state board of education shall make awards to needy and disadvantaged students on a priority basis by ranking the qualified applicants according to financial need and such other considerations as deemed appropriate and within the purposes of RCW 28A.04.137 and 28A.58.700 through 28A.58.707 by the state board of education. Awards shall be granted to the highest ranked students until the total amount of funds allocated for this purpose are disbursed. [1973 c 81 § 4.]

Severability—1973 c 81: See note following RCW 28A.58.700.

28A.58.704 Student financial assistance program—
Discriminatory practices prohibited. All student financial aid shall be granted by the state board of education without regard to the applicant's race, creed, color, marital status, religion, sex, or ancestry. [1973 c 81 § 5.]

Severability—1973 c 81: See note following RCW 28A.58.700.

28A.58.706 Student financial assistance program—
Grants, gifts, bequests and devises authorized for. The state board of education shall be authorized to accept grants, gifts, bequests, and devises of real and personal property from any source and to sell or otherwise dispose

of the same for the purpose of granting financial aid in addition to that funded by the state. [1973 c 81 § 6.]

Severability—1973 c 81: See note following RCW 28A.58.700.

28A.58.707 Student financial assistance program—**Scope of use of awards.** A state financial aid recipient under RCW 28A.04.137 and 28A.58.700 through 28A.58.707 shall apply the award solely toward the cost of supplies, books, tuition, incidental and other fees or such other authorized expenditures as the state board of education shall deem proper, subject to denial of further financial aid for any such recipient not so doing. [1973 c 81 § 7.]

Severability—1973 c 81: See note following RCW 28A.58.700.

28A.58.720 Nonprofit meal program for elderly—**Purpose.** The legislature finds that many elderly persons suffer dietary deficiencies and malnutrition due to inadequate financial resources, immobility, lack of interest due to isolation and loneliness, and characteristics of the aging process, such as physiological, social, and psychological changes which result in a way of life too often leading to feelings of rejection, abandonment, and despair. There is a real need as a matter of public policy to provide the elderly citizens with adequate nutritionally sound meals, through which their isolation may be penetrated with the company and the social contacts of their own. It is the declared purpose of RCW 28A.58.136, 28A.58.720 and 28A.58.722 to raise the level of dignity of the aged population where their remaining years can be lived in a fulfillment equal to the benefits they have bestowed, the richness they have added, and the great part they have played in the life of our society and nation. [1973 c 107 § 1.]

28A.58.722 Nonprofit meal program for elderly—**Authorized**—**Restrictions.** The board of directors of any school district may establish or allow for the establishment of a nonprofit meal program for feeding elderly persons residing within the area served by such school district using school facilities, and may authorize the extension of any school food services for the purpose of feeding elderly persons, subject to the following conditions and restrictions:

(1) The charge to such persons for each meal shall not exceed the actual cost of such meal to the school.

(2) The program will utilize methods of administration which will assure that the maximum number of eligible individuals may have an opportunity to participate in such a program, and will coordinate, whenever possible, with the local area agency on aging.

(3) Any nonprofit meal program established pursuant to RCW 28A.58.136, 28A.58.720 and 28A.58.722 may not be operated so as to interfere with the normal educational process within the schools.

(4) No school district funds may be used for the operation of such a meal program.

(5) For purposes of RCW 28A.58.136, 28A.58.720 and 28A.58.722, "elderly persons" shall mean persons who are at least sixty years of age. [1973 c 107 § 3.]

28A.58.730 Deposit of cumulative total of earnings of group of employees—**Authorized**—**Conditions.** Any school district authorized to draw and issue their own warrants may deposit the cumulative total of the net earnings of any group of employees in one or more banks within the state such group or groups may designate, to be credited to the individuals composing such groups, by a single warrant to each bank so designated or by other commercially acceptable methods: *Provided*, That any such collective authorization shall be made in writing by a minimum of twenty-five employees or ten percent of the employees, whichever is less. [1973 c 111 § 5.]

Severability—1973 c 111: See note following RCW 28A.60.328.

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 nondeferred 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.59.006 Elections in first class school districts containing a city of the first class, in class A and class AA counties.
- 28A.59.007 Elections for school directors in district embracing city over one hundred thousand.
- 28A.59.030 Board president, vice president or president pro tempore—Secretary.
- 28A.59.040 Certain board elections, manner and vote required—Selection of personnel, manner.
- 28A.59.050 Duties of president.
- 28A.59.060 Duties of vice president.
- 28A.59.070 Duties of superintendent as secretary of the board.
- 28A.59.080 Superintendent's bond and oath.
- 28A.59.091 Directors—Meetings.
- 28A.59.100 Office of board—Records available for public inspection.
- 28A.59.110 Payment of claims—Signing of warrants.

28A.59.121 Board vacancies, filling of.
 28A.59.150 Auditing committee and expenditures—Examination by educational service district superintendent.
 28A.59.180 Additional powers of board.
 28A.59.185 Permanent insurance fund—Budget item—Investment.
 28A.59.310 School district warrants, first class districts.
Professional certification not to be required of superintendent, deputy or assistant superintendents: RCW 28A.02.260.

28A.59.006 Elections in first class school districts containing a city of the first class, in class A and class AA counties. See RCW 29.13.060.

28A.59.007 Elections for school directors in district embracing city over one hundred thousand. See RCW 29.21.190 through 29.21.220.

28A.59.030 Board president, vice president or president pro tempore—Secretary. At the first meeting of the members of the board they shall elect a president and vice president from among their number who shall serve for a term of one year or until their successors are elected. In the event of the temporary absence or disability of both the president and vice president, the board of directors may elect a president pro tempore who shall discharge all the duties of president during such temporary absence or disability.

The superintendent of such school district shall act as secretary to the board in accordance with the provisions of RCW 28A.58.150. [1969 ex.s. c 223 § 28A.59.030. Prior: 1953 c 111 § 6; prior: 1909 c 97 p 290 § 3, part; RRS § 4792, part. Formerly RCW 28.62.030.]

28A.59.040 Certain board elections, manner and vote required—Selection of personnel, manner. The election of the officers of the board of directors or to fill any vacancy as provided in RCW 28A.57.326, and the selection of the school district superintendent shall be by oral call of the roll of all the members, and no person shall be declared elected or selected unless he receives a majority vote of all the members of the board. Selection of other certificated and noncertificated personnel shall be made in such manner as the board shall determine. [1969 ex.s. c 223 § 28A.59.040. Prior: 1909 c 97 p 290 § 4; RRS § 4793. Formerly RCW 28.62.040.]

28A.59.050 Duties of president. It shall be the duty of the president to preside at all meetings of the board, and to perform such other duties as the board may prescribe. [1969 ex.s. c 223 § 28A.59.050. Prior: 1909 c 97 p 290 § 5; RRS § 4794. Formerly RCW 28.62.050.]

28A.59.060 Duties of vice president. It shall be the duty of the vice president to perform all the duties of president in case of his absence or disability. [1969 ex.s. c 223 § 28A.59.060. Prior: 1909 c 97 p 291 § 6; RRS § 4795. Formerly RCW 28.62.060.]

28A.59.070 Duties of superintendent as secretary of the board. In addition to the duties as prescribed in RCW 28A.58.150, the school district superintendent, as secretary of the board, may be authorized by the board to act as business manager, purchasing agent, and/or

superintendent of buildings and janitors, and charged with the special care of school buildings and other property of the district, and he shall perform other duties as the board may direct. [1969 ex.s. c 223 § 28A.59.070. Prior: 1919 c 90 § 8; 1909 c 97 p 291 § 7; RRS § 4796. Formerly RCW 28.62.070.]

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.59.091 Directors—Meetings. See RCW 28A.57.324.

28A.59.100 Office of board—Records available for public inspection. The board of directors shall maintain an office where all regular meetings shall be held, and where all records, vouchers and other important papers belonging to the board may be preserved. Such records, vouchers, and other important papers at all reasonable times shall be available for public inspection. [1969 ex.s. c 223 § 28A.59.100. Prior: 1909 c 97 p 291 § 10; RRS § 4799; prior: 1897 c 118 § 87; 1890 p 389 § 14. Formerly RCW 28.62.100.]

28A.59.110 Payment of claims—Signing of warrants. Moneys of such school districts shall be paid out only upon orders for warrants signed by the president, or a majority of the board of directors 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 president personally imposes too great a task on the president, the board of directors, after auditing all payrolls and bills as provided by RCW 28A.59.150, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president, 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. [1969 ex.s. c 223 § 28A.59.110. Prior: 1909 c 97 p 292 § 11; RRS § 4800. Formerly RCW 28.62.110.]

28A.59.121 Board vacancies, filling of. See RCW 28A.57.326.

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.

28A.59.180 Additional powers of board. Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in chapter 28A.58 RCW or elsewhere in this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him; and to fix his duties and compensation.

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation.

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation.

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation.

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the state board of education for the use of the common schools of this state.

(6) To establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of handicapped youth, as in the judgment of the board, best shall promote the interests of education in the district.

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: *Provided*, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools

and for the daily dismissal of pupils before the regular time for closing schools.

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof.

(9) To provide free textbooks and supplies for all children attending school, when so ordered by a vote of the electors; or if the free textbooks are not voted by the electors, to provide books for children of indigent parents, on the written statement of the city superintendent that the parents of such children are not able to purchase them.

(10) To require of the officers or employees of the district to give a bond for the faithful discharge of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by the district.

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure; he or authorized deputies shall make monthly inspections of each school in the district and report the condition of the same to the board of education and board of health: *Provided*, That children shall not be required to submit to vaccination against the will of their parents or guardian. [1969 ex.s. c 223 § 28A.59.180. Prior: 1919 c 90 § 9; 1909 c 97 p 293 § 16; RRS § 4805. Formerly RCW 28.62.180, 28.31.070.]

28A.59.185 Permanent insurance fund—Budget item—Investment. School districts of the first class, when in the judgment of the board of directors it be deemed expedient, shall have power to create and maintain a permanent insurance fund for said districts, to be used to meet losses by fire, if any, of said school districts.

Funds required for maintenance of such a permanent insurance fund shall be budgeted and allowed as are other funds required for the support of the school district.

The county treasurer or other custodian of such fund, when authorized to do so by the board of directors of any school district, may invest any accumulated moneys in such permanent insurance fund in like manner as for the investment or reinvestment of other school funds as provided in RCW 28A.58.440. [1969 ex.s. c 223 § 28A.59.185. Prior: (i) 1911 c 79 § 1; RRS § 4707. Formerly RCW 28.59.010. (ii) 1911 c 79 § 2; RRS § 4708. Formerly RCW 28.59.020. (iii) 1941 c 187 § 1; 1911 c 79 § 3; Rem. Supp. 1941 § 4709. Formerly RCW 28.59.030.]

28A.59.310 School district warrants, first class districts. See chapter 28A.66 RCW.

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.60.021 Board vacancies, filling of.
- 28A.60.031 Directors—Meetings.
- 28A.60.070 Notice to ESD superintendent of change of chairman or superintendent.
- 28A.60.101 Budgets—Second class districts.
- 28A.60.181 Schoolhouses, teachers' cottages—Purchase of realty for district purposes.
- 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.
- 28A.60.220 School property used for public purposes—Limit on expenditures.
- 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.60.330 Issuance of warrants—Second class districts.
- 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.60.021 Board vacancies, filling of. See RCW 28A.57.326.

28A.60.031 Directors—Meetings. See RCW 28A.57.324.

28A.60.070 Notice to ESD superintendent of change of chairman or superintendent. 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-'76 2nd ex.s. c 15 § 11. Prior: 1975 1st ex.s. c 275 § 119; 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.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.60.101 Budgets—Second class districts. See chapter 28A.65 RCW.

28A.60.181 Schoolhouses, teachers' cottages—Purchase of realty for district purposes. The board of directors of a second class school district shall build schoolhouses and teachers' cottages when directed by a vote of the district to do so. The board of directors of a second class school district may purchase real property for any school district purpose. [1969 ex.s. c 223 § 28A.60.181. Prior: 1963 c 61 § 1; 1959 c 169 § 1. Formerly RCW 28.63.181.]

Borrowing money, issuing bonds, for schoolhouse sites, playgrounds, erecting buildings and equipping same: RCW 28A.51.010.

Real property—Sale—Purchase to relocate and sell buildings: RCW 28A.58.045.

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. 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-'76 2nd ex.s. c 15 § 12. Prior: 1975 1st ex.s. c 275 § 121; 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.]

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

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.60.220 School property used for public purposes—Limit on expenditures. No real or personal property or improvements shall be purchased, leased, exchanged, acquired or sold, nor any schoolhouses built, remodeled or removed, nor any indebtedness incurred or money expended for any of the purposes of RCW 28A.60.190 through 28A.60.220 except in the manner otherwise provided by law for the purchase, lease, exchange, acquisition and sale of school property, the building, remodeling and removing of schoolhouses and the incurring of indebtedness and expenditure of money for school purposes. [1969 ex.s. c 223 § 28A.60.220. Prior: 1913 c 129 § 4; RRS § 4840. Formerly RCW 28.63.220.]

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.60.330 Issuance of warrants—Second class districts. See RCW 36.22.090 and chapter 28A.66 RCW.

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.61 WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

Sections

- 28A.61.010 Association created.
- 28A.61.020 Membership.
- 28A.61.030 Powers of association.
- 28A.61.040 Coordination of policies—Report.
- 28A.61.050 Association dues—Payment.
- 28A.61.060 County or regional units.

28A.61.010 Association created. The public necessity for the coordination of programs and procedures pertaining to policymaking and to control and management among the school districts of the state is hereby recognized, and in the furtherance of such coordination there is hereby created for said purpose an agency of the state to be known as the Washington state school directors' association, hereinafter designated as the school directors' association. [1969 ex.s. c 223 § 28A.61.010. Prior: 1947 c 169 § 1; Rem. Supp. 1947 § 4709-20. Formerly RCW 28.58.320.]

28A.61.020 Membership. The membership of the school directors' association shall comprise the members of the boards of directors of the school districts of the state. [1969 ex.s. c 223 § 28A.61.020. Prior: 1947 c 169

§ 2; Rem. Supp. 1947 § 4709-21. Formerly RCW 28.58.330.]

28A.61.030 Powers of association. The school directors' association shall have the power:

(1) To prepare and adopt, amend and repeal a constitution and rules and regulations, and bylaws for its own organization including county or regional units and for its government and guidance: *Provided*, That action taken with respect thereto is consistent with the provisions of RCW 28A.61.010 through 28A.61.060 or with other provisions of law;

(2) To arrange for and call such meetings of the association or of the officers and committees thereof as are deemed essential to the performance of its duties;

(3) To provide for the payment of travel and subsistence expenses incurred by members and/or officers of the association and association staff while engaged in the performance of duties under direction of the association in the manner provided by RCW 28A.58.310;

(4) To employ an executive secretary and other staff and pay such employees out of the funds of the association;

(5) To conduct studies and disseminate information therefrom relative to increased efficiency in local school board administration;

(6) To buy, sell or exchange such personal and real property as necessary for the efficient operation of the association;

(7) To purchase liability insurance for school directors, which insurance may indemnify said directors against any or all liabilities for personal or bodily injuries and property damage arising from their acts or omissions while performing or while in good faith purporting to perform their official duties as school directors;

(8) Upon request by a local school district board(s) of directors, to make available on a cost reimbursable contract basis (a) specialized services, (b) research information, and (c) consultants to advise and assist district board(s) in particular problem areas: *Provided*, That such services, information, and consultants are not already available from other state agencies, intermediate school districts, or from the information and research services authorized by RCW 28A.58.530: *Provided further*, That any such contract shall be filed with the office of program planning and fiscal management and the legislative budget committee prior to the date any work commences under any such contract. [1974 ex.s. c 101 § 1; 1969 ex.s. c 184 § 4; 1969 ex.s. c 223 § 28A.61.030. Prior: 1947 c 169 § 3; Rem. Supp. 1947 § 4709-22. Formerly RCW 28.58.340.]

28A.61.040 Coordination of policies—Report. It shall be the duty of the school directors' association (1) to take such action as the association deems advisable to effect a coordination of policymaking, control, and management of the school districts of the state; and (2) to prepare and submit to the superintendent of public instruction annually, and oftener if deemed advisable by the association, reports and recommendations respecting the aforesaid matters and any other matters which in the

judgment of the association pertain to an increase in the efficiency of the common school system. [1969 ex.s. c 223 § 28A.61.040. Prior: 1947 c 169 § 4; Rem. Supp. 1947 § 4709-23. Formerly RCW 28.58.350.]

28A.61.050 Association dues—Payment. The school directors' association may establish a graduated schedule of dues for members of the association based upon the number of certificated personnel in each district. Dues shall be established for the directors of each district as a group. The total of all dues assessed shall not exceed twenty-seven cents for each one thousand dollars of the state-wide total of all school districts' general fund receipts. The board of directors of a school district shall make provision for payment out of the general fund of the district of the dues of association members resident in the district, which payment shall be made in the manner provided by law for the payment of other claims against the general fund of the district. The dues for each school district shall be due and payable on the first day of January of each year, and if not paid by any district before the thirty-first day of December of any year the executive committee of the association may present a written request to the county auditor that such payment be made by him by transfer of funds from the general fund of the district. Upon receipt of such request the county auditor shall make such transfer. [1969 c 125 § 2; 1969 ex.s. c 223 § 28A.61.050. Prior: 1967 ex.s. c 8 § 76; 1965 c 103 § 1; 1957 c 281 § 1; 1953 c 226 § 1; 1947 c 169 § 5; Rem. Supp. 1947 § 4709-24. Formerly RCW 28.58.360.]

28A.61.060 County or regional units. To assist the Washington state school directors' association in carrying out its purpose as provided in RCW 28A.61.010, the members of that association may establish county or regional directors' associations which shall be designated as units of the Washington state school directors' association. Each county or regional unit may establish a schedule of dues for members of the unit, which schedule shall provide for dues not in excess of one dollar per year for each member from each school district. Such membership dues shall be payable to the county or regional unit and shall be due and payable at the same time and in the same manner as the membership dues for the Washington state school directors' association are due and payable. Dues payable to a county or regional unit shall be received by the treasurer of such unit and shall be disbursed by him upon order of the executive committee of such unit for necessary expenses incurred by such unit. [1969 ex.s. c 223 § 28A.61.060. Prior: 1955 c 256 § 1. Formerly RCW 28.58.365.]

Chapter 28A.65 SCHOOL DISTRICT BUDGETS

Sections

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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. 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-'76 2nd ex.s. c 15 § 13. Prior: 1975 1st ex.s. c 275 § 122; 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: This amendment to RCW 28A.65.080 was part of a code reviser's correction bill consolidating for reenactment purposes two prior and nonconflicting amendments to such section; chapter 118, Laws of 1975-'76 2nd ex. sess., enacting a new budgeting procedure bill for school districts, in section 34 thereof repealed prior session law parts constituting chapter 28A.65 RCW, as well as said individual RCW sections thereof. See RCW 28A.65.400 through 28A.65.485 below for substantive provisions thereof.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1972 ex.s. c 26: See note following RCW 28A.41.055.

Severability—1971 c 48: See note following RCW 28A.04.040.

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. [1975 1st ex.s. c 275 § 122; 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.] Repealed by 1975-'76 2nd ex.s. c 118 § 34.

Reviser's note: This section was also reenacted by 1975-'76 2nd ex.s. c 15 without cognizance of the repeal thereof.

28A.65.100 Adoption of budget—Second class districts to forward for review. 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-'76 2nd ex.s. c 15 § 14. Prior: 1975 1st ex.s. c 275 § 123; 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: This amendment to RCW 28A.65.100 was part of a code reviser's correction bill consolidating for reenactment purposes two prior and nonconflicting amendments to such section; chapter 118, Laws of 1975-'76 2nd ex. sess., enacting a new budgeting procedure bill for school districts, in section 34 thereof repealed existing session law parts constituting chapter 28A.65 RCW, as well as said individual RCW sections thereof. See RCW 28A.65.400 through 28A.65.485 below for substantive provisions thereof.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.65.100 Adoption of budget—Second class districts to forward for review. [1975 1st ex.s. c 275 § 123; 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.] Repealed by 1975-'76 2nd ex.s. c 118 § 34.

Reviser's note: This section was also reenacted by 1975-'76 2nd ex.s. c 15 without cognizance of the repeal thereof.

28A.65.120 Certification and filing of budgets. 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-'76 2nd ex.s. c 15 § 15. Prior: 1975 1st ex.s. c 275 § 125; 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: This amendment to RCW 28A.65.120 was part of a code reviser's correction bill consolidating for reenactment purposes two prior and nonconflicting amendments to such section; chapter 118, Laws of 1975-'76 2nd ex. sess., enacting a new budgeting procedure bill for school districts, in section 34 thereof repealed existing session law parts constituting chapter 28A.65 RCW, as well as said individual RCW sections thereof. See RCW 28A.65.400 through 28A.65.485 below for substantive provisions thereof.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.65.120 Certification and filing of budgets. [1975 1st ex.s. c 275 § 125; 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.] Repealed by 1975-'76 2nd ex.s. c 118 § 34.

Reviser's note: This section was also reenacted by 1975-'76 2nd ex.s. c 15 without cognizance of the repeal thereof.

28A.65.150 Second class districts—Emergency expenditures. 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-'76 2nd ex.s. c 15 § 16. Prior: 1975 1st ex.s. c 275 § 126; 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: This amendment to RCW 28A.65.150 was part of a code reviser's correction bill consolidating for reenactment purposes two prior and nonconflicting amendments to such section; chapter 118, Laws of 1975-'76 2nd ex. sess., enacting a new budgeting procedure bill for school districts, in section 34 thereof repealed existing session law parts constituting chapter 28A.65 RCW, as well as said individual RCW sections thereof. See RCW 28A.65.400 through 28A.65.485 below for substantive provisions thereof.

Effective date—Severability—1975 c 43: See notes following RCW 28A.57.140.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.65.150 Second and third class districts—Emergency expenditures. [1975 1st ex.s. c 275 § 126; 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.] Repealed by 1975-'76 2nd ex.s. c 118 § 34.

Reviser's note: This section was also reenacted by 1975-'76 2nd ex.s. c 15 without cognizance of the repeal thereof.

28A.65.300 Associated student body program fund—Created—Source of funds—Expenditures—Budgeting. See RCW 28A.58.120.

28A.65.400 Definitions. The following terms when used in this chapter shall have the following meanings, unless where used the context thereof shall clearly indicate to the contrary:

(1) "Revenue" means additions of assets during a given fiscal period to a fund of a school district in the form of cash which does not accompany the incurrence of liabilities or represent refunds of previous disbursements.

(2) "Accrual basis expenditures" mean costs during a given fiscal period for liabilities incurred, whether paid or unpaid.

(3) "Cash basis expenditures" mean actual disbursements during a given fiscal period for operating costs, capital outlay, and debt service, regardless of when liabilities are incurred, or the period of incurrence of cost.

(4) "Appropriation" means the maximum authorization during a given fiscal period to incur expenditures.

(5) "Disbursements" mean payments in cash, including but not limited to payments by warrants. [1975-'76 2nd ex.s. c 118 § 1.]

Severability—1975-'76 2nd ex.s. c 118: "If any provision of this 1976 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-'76 2nd ex.s. c 118 § 37.] This applies to RCW 1.16.030, 28A.01.020, 28A.03.350, 28A.44.080, 28A.44.085, 28A.44.090, 28A.48.010, 28A.48.100, 28A.58.150, 28A.65.400, 28A.65.405, 28A.65.410, 28A.65.415, 28A.65.420, 28A.65.425, 28A.65.430, 28A.65.435, 28A.65.440, 28A.65.445, 28A.65.450, 28A.65.455, 28A.65.460, 28A.65.465, 28A.65.470, 28A.65.475, 28A.65.480, 28A.65.485, 28A.65.490, 28A.65.495, 28A.66.070, 28A.66.100, and 84.52.020, and the repeal of RCW 28A.58.130, 28A.65.010, 28A.65.020, 28A.65.030, 28A.65.040, 28A.65.050, 28A.65.060, 28A.65.070, 28A.65.075, 28A.65.080, 28A.65.090, 28A.65.095, 28A.65.100, 28A.65.110, 28A.65.120, 28A.65.141, 28A.65.142, 28A.65.150, 28A.65.153, 28A.65.155, 28A.65.160, 28A.65.170, 28A.65.175, 28A.65.180 and 28A.65.190.

28A.65.405 Districts must utilize methods of revenue and expenditure recognition. All school districts must utilize the following methods of revenue and expenditure recognition in budgeting, accounting and financial reporting:

(1) Recognize revenue as defined in RCW 28A.65.400(1) for all funds.

(2) Utilize the accrual basis for the recognition of expenditures in determining operating costs from the general fund: *Provided*, That school districts with less than one thousand full time equivalent students for the previous year may utilize the cash basis for the recognition of expenditures in determining operating costs from the general fund: *Provided further*, That in school districts with less than one thousand full time equivalent students a list of accounts payable shall be prepared, as at the end of the fiscal year, subject to the penalties of perjury, a copy of which will accompany the districts' annual report and a copy of which will be filed with the districts' board of directors.

(3) Utilize the accrual basis for the recognition of expenditures in determining the costs of site acquisitions and the construction of buildings from the building fund: *Provided*, That school districts with less than one thousand full time equivalent students for the previous year may utilize the cash basis for recognition of expenditures in determining the costs of site acquisitions and the construction of buildings from the building fund.

(4) Utilize the cash basis for the recognition of expenditures in determining costs for bond interest and redemption funds, refunding bond funds and refunded bond funds.

(5) Utilize the cash basis for the recognition of expenditure in determining costs for permanent insurance funds. [1975-'76 2nd ex.s. c 118 § 2.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.410 District fiscal year. Beginning September 1, 1977 the fiscal year for all school districts shall be September 1 through August 31. [1975-'76 2nd ex.s. c 118 § 3.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.415 Budget—When prepared—Contents. On or before the tenth day of July in each year, all school districts shall prepare their budget for the ensuing fiscal year. The budget shall set forth the complete financial plan of the district for the ensuing fiscal year. [1975-'76 2nd ex.s. c 118 § 4.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.420 Budget—Notice of completion and of hearing thereon—Copies for the public—ESD review, when. Upon completion of their budgets as provided in RCW 28A.65.415, every school district shall publish a notice stating that the district has completed the budget and placed the same on file in the school district administration office, that a copy thereof will be furnished any person who will call upon the district for it, and that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting which shall occur no later than the thirty-first day of August for first class school districts, and the first day of August for second class school districts. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.

The district shall provide a sufficient number of copies of the budget to meet the reasonable demands of the public not later than July 20th in the first class school districts, and not later than July 15th in second class school districts. Second class school districts shall submit one copy of their budget to their educational service districts for review and comment no later than July 15th. [1975-'76 2nd ex.s. c 118 § 5.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.425 Budget—Hearing and adoption of—Copies filed with ESD's. On the date given in said notice as provided in RCW 28A.65.420 the school district board of directors shall meet at the time and place designated. Any person 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: *Provided*, That the budget must be adopted no

later than August 31st in first class school districts, and not later than August 1st in second class school districts.

Upon conclusion of the hearing, the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board: *Provided*, That first class school districts shall file four copies of their adopted budget with their educational service district no later than September 3rd, and second class school districts shall forward five copies of their adopted budget to their educational service district no later than August 3rd for review, alteration and approval as provided for in RCW 28A.65.430 by the budget review committee. [1975-'76 2nd ex.s. c 118 § 6.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.430 Budget review committee—Members—Review of budget, limitations. The budget review committee shall fix and approve the amount of the appropriation from each fund of the budget of second class districts not later than August 31st. No budget review committee shall knowingly approve any budget or appropriation that is in violation of this chapter or rules and regulations adopted by the superintendent of public instruction in accordance with RCW 28A.65.465(1). A copy of said budget shall be returned to the local school districts no later than September 10th.

Members of the budget review committee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the local school district board of directors or a representative thereof, and a representative of the superintendent of public instruction. [1975-'76 2nd ex.s. c 118 § 7.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.435 Budget—Disposition of copies. Copies of the budgets for all local school districts shall be filed with the superintendent of public instruction, the appropriate county auditor(s), and the office of the state auditor, no later than September 10th. One copy will be retained by the educational service district. [1975-'76 2nd ex.s. c 118 § 8.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.440 Budget—Forms, classifications, mandatory. Every school district budget shall be prepared, submitted and adopted on forms provided by the office of the superintendent of public instruction. The budget classifications contained in said format shall be in accordance with the accounting manual for public school districts, published by the office of the superintendent of public instruction and the office of the state auditor. Budgets on forms other than those provided by the office of the superintendent of public instruction shall not be official and will have no legal effect. [1975-'76 2nd ex.s. c 118 § 9.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.445 Budget—Contents of revenue and expenditure sections—Setting forth salaries. The revenue section of every school district budget shall set forth the estimated revenues for the ensuing fiscal year, the estimated revenues for the fiscal year current at the time of budget preparation, the actual revenues for the last completed fiscal year, and the probable net cash balance and investments available for ensuing fiscal year disbursements at the close of the said current fiscal year. The estimated revenues 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 RCW 28A.65.450 can be granted permission by the superintendent of public instruction to include as revenues in their budgets, receivables collectible in future fiscal years.

The expenditure section of the budget shall set forth by detailed items or classes the estimated expenditures for the ensuing fiscal year, the estimated expenditures for the fiscal year current at the time of budget preparation, and the actual 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 salaries may be set out in total amounts under each budget class if a detailed schedule(s) of such salaries and positions be attached to the budget and made a part thereof. In districts where negotiations have not been completed, the district may budget the salaries at the current year's rate and restrict ending net cash for the amount of anticipated increase in salaries, so long as an explanation shall be attached to the budget on such restriction of ending cash. [1975-'76 2nd ex.s. c 118 § 10.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.450 Budget—Including receivables collectible in future years—Limitations. When a school district board is unable to prepare a budget in which the estimated revenues for the ensuing fiscal year plus the estimated cash and investments on hand at the close of the current fiscal year do not at least equal the estimated disbursements for the ensuing fiscal year, the school district board shall petition in writing, on or before the tenth day of July, the superintendent of public instruction for permission to include receivables collectible in future years, in order to balance the ensuing fiscal year's budget. If such permission is granted, it shall be in writing, and it shall contain conditions, binding on the district, designed to improve the district's financial condition. Any budget or appropriation adopted by the board of directors without written permission from the superintendent of public instruction that contains estimated disbursements in excess of the total of estimated revenue for the current fiscal year plus net cash balance and investments at the close of the last completed fiscal year shall be null and void and shall not be considered an appropriation. [1975-'76 2nd ex.s. c 118 § 11.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.455 Withholding state funds upon district noncompliance—**Notice of.** If a local school district fails to comply with any binding restrictions issued by the superintendent of public instruction, the allocation of state funds for support of the local school district may be withheld, pending an investigation of the reason for such noncompliance by the office of the superintendent of public instruction. Written notice of the intent to withhold state funds, with reasons stated for this action, shall be made to the school district by the office of the superintendent of public instruction before any portion of the state allocation is withheld. [1975-'76 2nd ex.s. c 118 § 12.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.460 Budget—**Balanced, when.** For each fund contained in the school district budget the estimated disbursements for the ensuing fiscal year must not be greater than the total of the estimated revenues 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 as approved by the superintendent of public instruction for inclusion in the budget.

The budget shall be considered a balanced budget if the above requirement is met: *Provided*, That in the general fund, revenue, plus beginning net cash and investments, must exceed cash disbursements by an amount equal to or greater than the mandated cash reserved for transportation equipment as required by RCW 28A.41.160.

The proceeds of any interfund loan must not be used to balance the budget of the borrowing fund. [1975-'76 2nd ex.s. c 118 § 13.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.465 Rules and regulations for budgetary procedures—**Review when superintendent determines budget irregularity**—**Revised budget, state board's financial plan until adoption.** (1) Notwithstanding any other provision of law, the 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 this chapter.

(2) If the superintendent of public instruction determines upon a review of the budget of any district that said budget does not comply with the budget procedures established by this chapter or by rules and regulations promulgated by the superintendent of public instruction, or the provisions of RCW 43.09.200, he shall give notice of this determination to the board of directors of the local school district. The superintendent of public instruction shall then call a meeting with the educational service district, the local board of directors, and the chief administrative officer of the district to review said

budget. Upon the conclusion of said meeting the superintendent of public instruction shall issue findings and direct that a financially sound budget be developed by the district for operation.

(3) The local school district, notwithstanding any other provision of law, shall, within thirty days from the date the superintendent of public instruction issues a directive pursuant to subsection (2) of this section, submit a revised budget which meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction: *Provided*, That if the district fails or refuses to submit a revised budget which in the determination of the superintendent of public instruction meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction, the matter shall be submitted to the state board of education, which board 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 section. [1975-'76 2nd ex.s. c 118 § 14.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.470 Budgeted expenditures as appropriations—**Interim expenditures**—**Transfer between budget classes**—**Liability for nonbudgeted expenditures.** Total budgeted expenditures for each fund as adopted in the budget of a school district shall constitute the appropriations of the district for the ensuing fiscal year and the board of directors shall be limited in the incurring of expenditures to the grand total of such appropriations. The board of directors shall incur no expenditures for any purpose in excess of the appropriation for each fund: *Provided*, That no board of directors shall be prohibited from incurring 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 their participation in joint purchasing agencies authorized in RCW 28A.58.107 during the interim while the budget is being settled under RCW 28A.65.465: *Provided further*, That transfers between budget classes may be made by the school district's chief administrative officer or finance officer, subject to such restrictions as may be imposed by the school district board of directors.

Directors, officers or employees who knowingly or negligently violate or participate in a violation of this section by the incurring of expenditures in excess of any appropriation(s) shall be held civilly liable, jointly and severally, for such expenditures in excess of such appropriation(s), including consequential damages following therefrom, for each such violation. If as a result of any 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 any such action shall so provide.

Nothing in this section shall be construed to limit the duty of the attorney general to carry out the provisions

of RCW 43.09.260, as now or hereafter amended. [1975-'76 2nd ex.s. c 118 § 15.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.475 Appropriations lapse at end of fiscal year—Exception. All appropriations for any school district upon which their budget is based shall lapse at the end of the fiscal year. At the expiration of said period all appropriations shall become null and void and any claim presented thereafter against any such appropriation for the fiscal year just closed shall be provided for in the appropriation for the next fiscal year: *Provided*, That this shall not prevent payments upon incompleting improvements in progress at the close of the fiscal year. [1975-'76 2nd ex.s. c 118 § 16.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.480 First class school districts—Emergency or additional appropriation resolutions—Procedure. (1) Notwithstanding any other provision of this chapter, upon the happening of any emergency in first class school districts caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the restoration to a condition of usefulness of any school district property, the usefulness of which has been destroyed by accident, and no provision has been made for such expenditures in the adopted appropriation, the board of directors, upon the adoption by the vote of the majority of all board members of a resolution stating the facts constituting the emergency, may make an appropriation therefor without notice or hearing.

(2) Notwithstanding any other provision of this chapter, if in first class districts it becomes necessary to increase the amount of the appropriation, and if the reason is not one of the emergencies specifically enumerated in subsection (1) of this section, the school district board of directors, before incurring expenditures in excess of expenditures therefor, shall adopt a resolution stating the facts and the estimated amount of appropriation to meet it.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided in RCW 28A.65.420. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

All adopted appropriation resolutions shall be filed with the office of superintendent of public instruction, the office of the state auditor, the educational service district and the appropriate county auditor(s). [1975-'76 2nd ex.s. c 118 § 17.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.485 Second class school districts—Additional appropriation resolutions—Procedure. Notwithstanding any other provision of this chapter, if a second class school district needs to increase the amount of the

appropriation from any fund for any reason, the school district board of directors shall adopt a resolution stating the facts and estimating the amount of additional appropriation needed.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided by RCW 28A.65.420. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Upon passage of the appropriation resolution the school district shall petition the superintendent of public instruction for approval to increase the amount of its appropriations in the manner prescribed in rules and regulations for such approval by the superintendent.

All appropriation resolutions approved by the superintendent of public instruction shall be filed by the office of the superintendent of public instruction with the educational service district, the office of the state auditor, and the appropriate county auditor(s). [1975-'76 2nd ex.s. c 118 § 18.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.490 Program budget for distribution to the public—Contents—Scope. The legislature strongly encourages every school district to prepare a program budget to be distributed to those recognized parent and community groups, and the general public, which specifies the following:

(1) A priority listing of the educational goals which the school district board has established.

(2) A description of the basic education program which the school district board established with respect to both elementary and secondary programs. A summary of expenditures for basic education programs should be included which identify the portion of the budget expended for salaries (certificated and classified), employee benefits, supplies and materials, and other expenditures.

(3) A description of each subprogram offered within the basic education program by the school district board, including a listing of the specific goals, and a summary of expenditures for, the subprograms which identify the portion of the budget expended for salaries (certificated and classified), employee benefits, supplies and materials, and other expenditures. Subprogram categories should include but not be limited to reading, music, mathematics, language arts, science, social studies, health and physical education, extracurricular sports, nonsport extracurricular, instructional supportive services, supportive services/principal's office, and counseling.

(4) A description of separately funded state programs which are included in the school district budget as instructional or other specialized services. A summary of expenditures should be included which identify the portion of the budget expended for salaries (certificated and classified), employee benefits, supplies and materials, and other expenditures. Where applicable this category

should include but not be limited to vocational education, handicapped, and culturally disadvantaged.

(5) A description of federal programs which augment state and local programs in the district. A summary of expenditures should be included which identify this portion of the budget expended for salaries (certificated and classified), employee benefits, supplies and materials, and other expenditures.

(6) A description of other programs sponsored by the school district which are supported by fees, special grants, and/or contributions. A summary of expenditures should be included which identify this portion of the budget expended for salaries (certificated and classified), employee benefits, supplies and materials, and other expenditures.

(7) A description of supportive services, including a listing of specific goals and a summary of expenditures, which identify the portion of the budget expended for salaries (certificated and classified), employee benefits, supplies and materials, and other expenditures. Supportive services should include the elements of board of directors, superintendent/personnel, business services, maintenance and operations, food service, and transportation. [1975-'76 2nd ex.s. c 118 § 19.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

28A.65.495 Short fiscal period budget—**Contents**—**Procedure for fixing and adopting**—**Copies filed**—**Financial reports, format, filing.** (1) In order to implement the change in fiscal years provided in RCW 28A.65.400 through 28A.65.490 a short fiscal period shall exist from July 1, 1977 through August 31, 1977.

(2) Budgets for the period July 1, 1977 through August 31, 1977, shall be prepared and adopted in the format provided by the office of the superintendent of public instruction. The budget classifications shall be in accordance with the latest revised accounting manual for public school districts published by the office of the superintendent of public instruction and the office of the state auditor.

(3) The revenue section of said budget shall set forth the estimated revenues from all sources for said period and the probable cash balance and investments available for said period disbursements at the close of the 1976-77 fiscal year: *Provided*, That school districts pursuant to instructions promulgated by the superintendent of public instruction shall be granted permission to include as revenues in said budget receivables collectible in future fiscal periods.

(4) The expenditure section of said budget shall set forth by detailed items or classes the estimated expenditures for said period.

(5) The estimated disbursements for said period must not be greater than the total of the estimated revenues for said period, the probable net cash balance, and investments at the close of the 1976-77 fiscal year, and the projected revenue from receivables collectible in future periods approved by the superintendent of public instruction for inclusion in said budget.

(6) On or before May 10, 1977, all school districts shall prepare their budgets for the period of July 1, 1977 through August 31, 1977.

(7) All school districts after completion of said budget shall publish a notice stating that the district has completed the budget and placed the same on file in the district administration office, that a copy thereof will be furnished any person who will call upon the district for it, and that the school district board of directors will meet for the purpose of fixing and adopting said budget of the district for said period. Such notice shall designate the date, time and place of said meeting which shall occur on or before June 30, 1977, for first class school districts, and June 1, 1977, for second class school districts.

The notice shall also state that any person may appear thereat and be heard for or against any part of said budget. Said notice shall be published at least once each week for two consecutive weeks following preparation of said budget in a newspaper of general circulation in the district, or if there be none, in a newspaper of general circulation in the county: *Provided*, That the second notice shall be published no later than seven days immediately prior to the hearing.

The district shall provide a sufficient number of copies of said budget to meet the reasonable demands of the public and the same shall be available for distribution not later than fourteen days preceding the date set for the public hearing.

(8) On the date given in said notice the school district board of directors shall meet at the time and place designated. Any person may appear thereat and be heard for or against any part of said budget. Such hearing may be continued not to exceed a total of two days.

Upon conclusion of the hearing, the school district board of directors shall fix and determine the appropriation from each fund contained in said budget separately and shall by resolution adopt the budget and the appropriations as so finally determined and enter the same in the official minutes of the board.

(9) First class school districts shall file four copies of their adopted budget for said period with their educational service district no later than July 10, 1977.

(10) Second class school districts shall forward five copies of their adopted budget for said period with their educational service district for review, alteration and approval no later than June 3, 1977.

(11) The educational service districts shall fix and approve the amount of the appropriation from each fund of the budget for second class school districts for the period July 1, 1977 through August 31, 1977, not later than June 30, 1977. One copy of said budget shall be returned to the district.

(12) The educational service district shall file a copy of said budget for all school districts no later than July 10, 1977, with the office of the superintendent of public instruction, the office of the state auditor and the appropriate county auditor(s). A copy shall be retained by the educational service district.

(13) Financial reports shall be prepared and submitted by local school districts, educational service districts, county auditors and county treasurers on the formats

provided by the office of the superintendent of public instruction. Filing shall be in accordance with the instructions issued jointly by the superintendent of public instruction and the state auditor. [1975-'76 2nd ex.s. c 124 § 1; 1975-'76 2nd ex.s. c 118 § 20.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

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.66.030 Auditing accounts—All districts.
- 28A.66.040 Auditor to draw and issue warrants—Second class districts.
- 28A.66.050 Teacher must qualify before warrant drawn and issued or registered—All 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.66.070 Liability of auditor for warrants exceeding budget—All districts.
- 28A.66.080 Orders for warrants not transferable—Second class districts.
- 28A.66.090 Check and report of redeemed warrants—All districts.
- 28A.66.100 Auditor's annual report to educational service district superintendent.
- 28A.66.110 Issuance of warrants—First class districts.
- 28A.66.120 Issuance of warrants for certain political subdivisions, including second class school districts.
- 28A.66.200 Division of municipal corporations, state auditor's office, scope as affecting school districts.

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.66.030 Auditing accounts—All districts. The county auditors of the several counties of this state shall audit all accounts of the several school districts of their respective counties, the same as other accounts are audited with the other departments of the county. [1969

ex.s. c 223 § 28A.66.030. Prior: 1909 c 97 p 308 § 2; RRS § 4858. Formerly RCW 28.66.030.]

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.66.050 Teacher must qualify before warrant drawn and issued or registered—All districts. No warrant shall be drawn and issued or registered by the county auditor for the payment of any teacher who is not qualified within the meaning of the law of this state. [1973 c 72 § 1; 1971 c 48 § 45; 1969 ex.s. c 223 § 28A.66.050. Prior: 1909 c 97 p 308 § 4; RRS § 4860. Formerly RCW 28.66.050.]

Severability—1971 c 48: See note following RCW 28A.04.040.

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.66.070 Liability of auditor for warrants exceeding budget—All districts. Any county auditor issuing or causing to be issued a district warrant for any sum in excess of total disbursements of a district's annual budget shall be personally liable therefor, and shall reimburse the district in double the amount of any such sum. [1975-'76 2nd ex.s. c 118 § 31; 1969 ex.s. c 223 § 28A.66.070. Prior: 1959 c 216 § 22; 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 28.66.070.]

Severability—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

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.66.090 Check and report of redeemed warrants—All districts. The county auditor shall check the redeemed warrants of all school districts after each monthly settlement with the treasurer, enter the date redeemed in his school warrant register, and certify as to the correctness of the treasurer's reports to such school districts. [1969 ex.s. c 223 § 28A.66.090. Prior: 1911 c 78 § 1, part; RRS § 4865. Formerly RCW 28.66.090.]

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 August thirty-first on the financial condition of each school in his county to the educational service district superintendent on or before the twenty-fifth day of September, in such form as may be prescribed jointly by the superintendent of public instruction and the state auditor. [1975-'76 2nd ex.s. c 118 § 32; 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—1975-'76 2nd ex.s. c 118: See note following RCW 28A.65.400.

Severability—1971 c 48: See note following RCW 28A.04.040.

28A.66.110 Issuance of warrants—First class districts. See RCW 28A.59.110.

28A.66.120 Issuance of warrants for certain political subdivisions, including second class school districts. See RCW 36.22.090.

28A.66.200 Division of municipal corporations, state auditor's office, scope as affecting school districts. See RCW 43.09.190 through 43.09.285.

Chapter 28A.67

TEACHERS—GENERAL PROVISIONS

Sections

- 28A.67.010 Qualifications—Certificate or permit required.
- 28A.67.015 Qualifications—Professional certification not to be required of superintendent, deputy or assistant superintendents.
- 28A.67.020 Qualifications—Citizenship requirement—Permits to aliens—Oath required.
- 28A.67.030 Disqualification for failure to emphasize patriotism.
- 28A.67.035 Noncompliance with RCW 28A.67.020 and 28A.67.030—Penalties.
- 28A.67.040 Annual report—Report as prerequisite for salary.
- 28A.67.050 Register to be kept—Proper register as prerequisite for salary.
- 28A.67.060 Course of study and regulations—Enforcement—Withholding salary warrant for failure.

- 28A.67.065 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty.
- 28A.67.066 Annual salary schedules as basis for salaries of certificated employees.
- 28A.67.070 Conditions and contracts of employment—Determination of probable cause for nonrenewal of contracts—Notice—Opportunity for hearing.
- 28A.67.072 Conditions and contracts of employment—Nonrenewal of provisional employees—Procedure.
- 28A.67.073 Conditions and contracts of employment—Transfer of administrator to subordinate certificated position—Procedure.
- 28A.67.074 Conditions and contracts of employment—Supplemental contracts, when—Continuing contract provisions not applicable to.
- 28A.67.081 Direct judicial appeal in lieu of board hearing provided in RCW 28A.67.070.
- 28A.67.085 Sick leave.
- 28A.67.086 Seniority and leave benefits, retention upon transfers between school districts.
- 28A.67.095 Payroll deductions authorized for certificated employees—When.
- 28A.67.096 Payroll deductions authorized for certificated employees—Savings.
- 28A.67.100 Powers relative to behavior of pupils.
- 28A.67.110 Must teach morality and patriotism.
- 28A.67.200 Penalties generally applicable to.
- 28A.67.900 Certain certificated employees exempt from chapter provisions.

Educational employment relations act: Chapter 41.59 RCW.

Pupil/teacher ratio provisions, board rules and regulations: RCW 28A.41.130.

28A.67.010 Qualifications—Certificate or permit required. No person shall be accounted as a qualified teacher within the meaning of the school law who is not the holder of a valid teacher's certificate or permit issued by lawful authority of this state. [1969 ex.s. c 223 § 28A.67.010. Prior: 1909 c 97 p 306 § 1; RRS § 4844; prior: 1907 c 240 § 6; 1897 c 118 § 51; 1891 c 127 § 14; 1890 p 369 § 37; 1886 p 18 § 47; 1873 p 430 § 15. Formerly RCW 28.67.010.]

28A.67.015 Qualifications—Professional certification not to be required of superintendent, deputy or assistant superintendents. See RCW 28A.02.260.

28A.67.020 Qualifications—Citizenship requirement—Permits to aliens—Oath required. No person, who is not a citizen of the United States of America, shall be permitted to teach in the common schools in this state: *Provided*, That the superintendent of public instruction may grant to an alien a permit to teach in the common schools of this state if such teacher has all the other qualifications required by law, has declared his intention of becoming a citizen of the United States of America and five years and six months have not expired since such declaration was made: *Provided further*, That the superintendent of public instruction may grant to an alien whose qualifications have been approved by the state board of education a temporary permit to teach as an exchange teacher in the common schools of this state, irrespective of requirements respecting citizenship and oath of allegiance. Before such alien shall be granted a temporary permit he shall be required to subscribe to an oath or affirmation in writing that he is not a member of or affiliated with a

communist or communist-sponsored organization or a fascist or fascist-sponsored organization. The form of such oath or affirmation shall be prepared by the superintendent of public instruction. All oaths or affirmations subscribed as herein provided shall be filed in the office of the superintendent of public instruction and shall be there retained for a period of five years. Such permits shall at all times be subject to revocation by the superintendent of public instruction. [1969 ex.s. c 223 § 28A.67.020. Prior: 1949 c 32 § 1; 1919 c 38 § 1; Rem. Supp. 1949 § 4845. Formerly RCW 28.67.020.]

28A.67.030 Disqualification for failure to emphasize patriotism. No person, whose certificate or permit authorizing him to teach in the common schools of this state has been revoked due to his failure to endeavor to impress on the minds of his pupils the principles of patriotism, or to train them up to the true comprehension of the rights, duty and dignity of American citizenship, shall be permitted to teach in any common school in this state. [1969 ex.s. c 223 § 28A.67.030. Prior: 1919 c 38 § 2; RRS § 4846. Formerly RCW 28.67.030.]

28A.67.035 Noncompliance with RCW 28A.67.020 and 28A.67.030—Penalties. Any person teaching in any school in violation of RCW 28A.67.020 or 28A.67.030, and any school director knowingly permitting any person to teach in any school in violation of RCW 28A.67.020 or 28A.67.030, shall be guilty of a misdemeanor. [1969 ex.s. c 223 § 28A.67.035. Prior: 1919 c 38 § 3; RRS § 4847. Formerly RCW 28.67.035, 28.67.120.]

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.67.050 Register to be kept—Proper register as prerequisite for salary. Every teacher shall keep a

school register in such manner as the local school district, acting under regulations of the superintendent of public instruction, so directs, and no board of directors shall draw any order or warrant for the salary of any teacher for the last month of his service in the school at the end of any term or year, until the board has received said teacher's register and found the same in conformity with district requirements. [1969 ex.s. c 223 § 28A.67.050. Prior: 1909 c 97 p 307 § 3; RRS § 4849; prior: 1897 c 118 § 53; 1890 p 370 § 39; 1886 p 18 § 47; Code 1881 § 3200; 1873 p 430 § 15. Formerly RCW 28.67.050.]

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 Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty. (1) The superintendent of public instruction shall, on or before January 1, 1977, establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter. Such criteria shall be subject to review by November 1, 1976, by four members of the legislature, one from each caucus of each house, including the chairpersons of the respective education committees.

Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six

months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

It shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel, hereinafter referred to as "employees" in this section, shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the evaluation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a total observation time of thirty minutes during the first ninety calendar days of their employment period.

Every employee whose work is judged unsatisfactory based on district evaluation criteria shall be notified in writing of stated specific areas of deficiencies along with a suggested specific and reasonable program for improvement on or before February 1st of each year. A probationary period shall be established beginning on or before February 1st and ending no later than May 1st. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement shall be specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW 28A.58.450 or 28A.67.070, as now or hereafter amended.

The establishment of a probationary period shall not be deemed to adversely affect the contract status of an employee within the meaning of RCW 28A.58.450, as now or hereafter amended.

(2) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Such evaluation shall be

based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

(3) Each certificated employee shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its sole purpose the aiding of the administrator in his or her professional performance.

(4) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated employees or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW 28A.67.070, as now or hereafter amended, or the discharge of such evaluator under RCW 28A.58.450, as now or hereafter amended. [1975-'76 2nd ex.s. c 114 § 3; 1975 1st ex.s. c 288 § 22; 1969 ex.s. c 34 § 22. Like section formerly RCW 28.67.065.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

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.67.066 Annual salary schedules as basis for salaries of certificated employees. Every school district by action of its board of directors shall adopt annual salary schedules and reproduce the same by printing, mimeographing or other reasonable method, which shall be the basis for salaries for all certificated employees in the district. [1969 ex.s. c 283 § 1. Formerly RCW 28.67.066.]

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

28A.67.070 Conditions and contracts of employment—Determination of probable cause for nonrenewal of contracts—Notice—Opportunity for hearing. 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 except as otherwise provided by law, 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 employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined 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 such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. 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 president, chairman or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW 28A.58.455 to determine whether there is sufficient cause or causes for nonrenewal of contract. If any such notification or opportunity for hearing is not timely given, 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 or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW 28A.67.072; transfer to a subordinate certificated position as that procedure is set forth in RCW 28A.67.073 shall not be construed as a nonrenewal of contract for the purposes of this section. [1975-'76 2nd ex.s. c 114 § 4; 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.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

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.

Minimum criteria for the evaluation of certificated employees, including administrators—Procedure—Scope—Penalty: RCW 28A.67.065.

RCW 28A.67.070 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.67.072 Conditions and contracts of employment—Nonrenewal of provisional employees—Procedure. Notwithstanding the provisions of RCW 28A.67.070 as now or hereafter amended, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first year of employment by such district. Employees as defined in this section shall hereinafter be referred to as "provisional employees".

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW 28A.67.065, as now or hereafter amended.

Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor.

A copy of such report shall be delivered to the provisional employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW 28A.67.070, and chapter 28A.88 RCW, as now or hereafter amended. [1975-'76 2nd ex.s. c 114 § 1.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

28A.67.073 Conditions and contracts of employment—Transfer of administrator to subordinate certificated position—Procedure. Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or chairman, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board,

and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: *Provided*, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976 and to all persons so employed at any time thereafter. This section provides the exclusive means for transferring an administrator to a subordinate certificated position at the expiration of the term of his or her employment contract. [1975-'76 2nd ex.s. c 114 § 9.]

Savings—Severability—1975-'76 2nd ex.s. c 114: See notes following RCW 28A.58.137.

28A.67.074 Conditions and contracts of employment—Supplemental contracts, when—Continuing contract provisions not applicable to. No certificated employee shall be required to perform duties not described in the contract unless a new or supplemental contract is made, except that in an unexpected emergency the board of directors or school district administration may require the employee to perform other reasonable duties on a temporary basis.

No supplemental contract shall be subject to the continuing contract provisions of Titles 28A or 28B RCW. [1969 ex.s. c 283 § 2. Formerly RCW 28.67.074.]

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

RCW 28A.67.074 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.67.081 Direct judicial appeal in lieu of board hearing provided in RCW 28A.67.070. See RCW 28A.58.515.

28A.67.085 Sick leave. See RCW 28A.58.100.

28A.67.086 Seniority and leave benefits, retention upon transfers between school districts. See RCW 28A.58.100.

28A.67.095 Payroll deductions authorized for certificated employees—When. In addition to other deductions permitted by law, any person authorized to

disburse funds in payment of salaries or wages of certificated employees of school districts, upon written request of at least ten percent (10%) of the certificated employees shall make deductions as they authorize, subject to the limitations of district equipment or personnel. Any person authorized to disburse funds shall not be required to make other deductions for certificated employees if fewer than ten percent (10%) of the certificated employees make the request for the same payee. Moneys so deducted shall be paid or applied monthly by the school district for the purposes specified by the employee. The employer may not derive any financial benefit from such deductions. [1972 ex.s. c 39 § 1.]

28A.67.096 Payroll deductions authorized for certificated employees—Savings. Nothing in RCW 28A.67-.095 shall be construed to annul or modify any lawful agreement heretofore entered into between any school district and any representative of its employees or other existing lawful agreements and obligations in effect on May 23, 1972. [1972 ex.s. c 39 § 2.]

28A.67.100 Powers relative to behavior of pupils. Every teacher shall have the power to hold every pupil to a strict accountability for any disorderly or anti-social conduct on the way to and from school or while under his supervision and to make recommendations to the proper school authority for the suspension of any pupil upon probable cause therefor. [1969 ex.s. c 223 § 28A-.67.100. Prior: 1909 c 97 p 308 § 7; RRS § 4854; prior: 1897 c 118 § 57; 1890 p 371 § 41; 1886 p 19 § 49; Code 1881 § 3202. Formerly RCW 28.67.100.]

Teacher may use force on pupil: RCW 9.11.040.

28A.67.110 Must teach morality and patriotism. It shall be the duty of all teachers to endeavor to impress on the minds of their pupils the principles of morality, truth, justice, temperance, humanity and patriotism; to teach them to avoid idleness, profanity and falsehood; to instruct them in the principles of free government, and to train them up to the true comprehension of the rights, duty and dignity of American citizenship. [1969 ex.s. c 223 § 28A.67.110. Prior: 1909 c 97 p 308 § 8; RRS § 4855; prior: 1897 c 118 § 58; 1890 p 371 § 42; 1886 p 19 § 50; Code 1881 § 3203. Formerly RCW 28.67.110.]

28A.67.200 Penalties generally applicable to. See chapter 28A.87 RCW.

28A.67.900 Certain certificated employees exempt from chapter provisions. Certificated employees subject to the provisions of this chapter shall not include those certificated employees hired to replace certificated employees who have been granted sabbatical, regular, or other leave by school districts.

It is not the intention of the legislature that this section apply to any regularly hired certificated employee or that the legal or constitutional rights of such employee be limited, abridged, or abrogated. [1972 ex.s. c 142 § 3.]

Chapter 28A.70
CERTIFICATION OF PERSONNEL EMPLOYED IN
THE COMMON SCHOOLS
(Formerly: Teachers' certification)

Sections

- 28A.70.005 Certification—State board duty—Rules and regulations—Superintendent of public instruction as administrator.
- 28A.70.021 State board of education—Approval of courses—Issuance of certificates.
- 28A.70.030 Professional certification not to be required of superintendent, deputy or assistant superintendents.
- 28A.70.110 Fee for certification—Disposition.
- 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.70.180 Limitation on reinstatement after revocation.
- 28A.70.300 Traffic safety education course teacher to be certificated.
- 28A.70.310 False reports of attendance as grounds for forfeiture or revocation of certificate.
- 28A.70.320 Director's connivance to employ uncertified teachers—Liability.

28A.70.005 Certification—State board duty—Rules and regulations—Superintendent of public instruction as administrator. The state board of education shall establish, publish and enforce rules and regulations determining eligibility for and certification of personnel employed in the common schools of this state, including certification for emergency or temporary, substitute or provisional duty and under such certificates or permits as the board shall deem proper or as otherwise prescribed by law. The superintendent of public instruction shall act as the administrator of any such rules and regulations and have the power to issue any certificates or permits and revoke the same in accordance with board rules and regulations. [1975-'76 2nd ex.s. c 92 § 2; 1969 ex.s. c 223 § 28A.70.005.]

Severability—1975-'76 2nd ex.s. c 92: See note following RCW 28A.04.120.

28A.70.021 State board of education—Approval of courses—Issuance of certificates. See RCW 28A.04.120.

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. 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. [(1) 1975-'76 2nd ex.s. c 92 § 3. (2) 1975-'76 2nd ex.s. c 15 § 17. Prior: 1975 1st ex.s. c 275 § 134; 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.]

Severability—1975-'76 2nd ex.s. c 92: See note following RCW 28A.04.120.

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.

Rights preserved—1969 ex.s. c 176: 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 employment in any school district of the state upon being registered by the school district, or the educational service district, if designated to do so by the school district, which fact shall be evidenced on the certificate in the words, "Registered for use in ----- district," together with the date of registry, and an official signature of the person registering the same: *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-'76 2nd ex.s. c 92 § 4; 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—1975-'76 2nd ex.s. c 92: See note following RCW 28A.04.120.

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 school district or educational service district, as the case may be, in which application is made shall be satisfied 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 school district superintendent or educational service district superintendent, as the case may be,

shall immediately notify the superintendent of public instruction of the action and shall fully and clearly state the 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-'76 2nd ex.s. c 92 § 5; 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.]

Severability—1975-'76 2nd ex.s. c 92: See note following RCW 28A.04.120.

Rights preserved—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.

28A.70.180 Limitation on reinstatement after revocation. In case any certificate is revoked, the holder shall not be eligible to receive another teacher's certificate for a period of twelve months after the date of revocation. [1969 ex.s. c 223 § 28A.70.180. Prior: 1909 c 97 p 346 § 2; RRS § 4993. Formerly RCW 28.70.180.]

28A.70.300 Traffic safety education course teacher to be certificated. See RCW 46.81.010.

28A.70.310 False reports of attendance as grounds for forfeiture or revocation of certificate. See RCW 28A.87.020.

28A.70.320 Director's connivance to employ uncertified teachers—Liability. See RCW 28A.87.135.

Chapter 28A.71 TEACHERS' INSTITUTES, WORKSHOPS AND OTHER IN-SERVICE TRAINING

Sections

28A.71.100 Authorized—Support—Accounting.

28A.71.100 Authorized—Support—Accounting. 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 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-'76 2nd ex.s. c 15 § 18. Prior: 1975 1st ex.s. c 275 § 139; 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.]

Severability—1975 1st ex.s. c 192: See note following RCW 28A.70.110.

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

Rights preserved—Severability—1969 ex.s. c 176: See notes following RCW 28A.21.010.

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.87.010 Abusing or insulting teachers, liability for—Penalty—Disposition of fine.
- 28A.87.020 Attendance, false reports of—Penalty—Pupils excused from examinations may be reported.
- 28A.87.030 Superintendents of school boards—Defaults of, liability for—Action to recover penalties—Disposition.
- 28A.87.041 Compulsory attendance act—Superintendent's report—Penalty for false or failure to report.
- 28A.87.050 ESD superintendent's reports, default in making—Penalty.
- 28A.87.055 Wilfully disobeying school administrative personnel or refusing to leave public property, violations, when—Penalty.
- 28A.87.060 Disturbing school, school activities or meetings—Penalty—Disposition of fines.
- 28A.87.065 Threats to bomb or injure school buildings—Penalty.
- 28A.87.070 Examination questions—Disclosing—Penalty—Disposition of fines.
- 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.87.120 Defacing or injuring school property—Liability of parent or guardian.
- 28A.87.130 Property, failure of officials or employees to account for—Mutilation by—Penalties.
- 28A.87.135 Director's connivance to employ uncertified teachers—Liability.
- 28A.87.140 Teacher's abuse of pupil—Penalty—Disposition of fines.
- 28A.87.151 Courses of study and regulations—Enforcement—Withholding salary warrant for failure.

- 28A.87.170 Districts using unauthorized textbooks, deviating from study courses, hiring unqualified teachers—Funds withheld.
- 28A.87.181 United States flag—Procurement, display, exercises—National anthem—Noncompliance, penalty.
- 28A.87.220 Educational institutions, discrimination because of race, color or creed—Penalty.
- 28A.87.230 Interfering by force or violence with any administrator, teacher or student unlawful.
- 28A.87.231 Intimidating any administrator, teacher or student by threat of force or violence unlawful.
- 28A.87.232 Violations under RCW 28A.87.230 and 28A.87.231—Disciplinary authority exception.
- 28A.87.233 Violations under RCW 28A.87.230 and 28A.87.231—Penalty.

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.87.010 Abusing or insulting teachers, liability for—Penalty—Disposition of fine. Any person who shall insult or abuse a teacher anywhere on the school premises while such teacher is carrying out his official duties, shall be guilty of a misdemeanor, the penalty for which shall be a fine of not less than ten dollars nor more than one hundred dollars; said fine shall be turned over to the county treasurer and by him remitted 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. [1969 ex.s. c 199 § 55; 1969 ex.s. c 223 § 28A.87.010. Prior: 1909 c 97 p 360 § 11; RRS § 5054; prior: 1903 c 156 § 11; 1897 c 118 § 169; 1890 p 383 § 86. Formerly RCW 28.87.010.]

28A.87.020 Attendance, false reports of—Penalty—Pupils excused from examinations may be reported. Any teacher, principal or school district superintendent who shall knowingly either report, cause to be reported, or permit to be reported the presence of any pupil or pupils at school, when such pupil or pupils were absent, or when school was not in session, shall forfeit his teacher's certificate or subject it to revocation, and the same shall not be restored or a new one granted within one year after such forfeiture or revocation: *Provided*, That pupils who are excused from attendance at examinations, having completed their work in accordance with rules of the school district board of directors, shall be accredited with attendance during said days of examination. [1969 ex.s. c 223 § 28A.87.020. Prior: 1909 c 97 p 361 § 13; RRS § 5056; prior: 1903 c 156 § 13. Formerly RCW 28.87.020.]

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.87.041 Compulsory attendance act—Superintendent's report—Penalty for false or failure to report. See RCW 28A.27.080.

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.87.055 Wilfully disobeying school administrative personnel or refusing to leave public property, violations, when—Penalty. (1) It shall be unlawful for any person to wilfully disobey the order of the chief administrative officer of a public school district, or of an authorized designee of any such administrator, to leave any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district if the person so ordered is committing, threatens to imminently commit or incites another to imminently commit any act which would disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district.

(2) It shall be unlawful for any person to refuse to leave public property immediately adjacent to a building, grounds or property which is owned, operated or controlled by a school district when ordered to do so by a law enforcement officer if such person is engaging in conduct which creates a substantial risk of causing injury to any person, or substantial harm to property, or such conduct amounts to disorderly conduct under RCW 9A.84.030.

(3) Nothing in this section shall be construed to prohibit or penalize activity consisting of the lawful exercise of freedom of speech, freedom of press and the right to peaceably assemble and petition the government for a redress of grievances: *Provided*, That such activity neither does or threatens imminently to materially disturb or interfere with or obstruct any lawful task, function, process or procedure of the school district, or any lawful task, function, process or procedure of any student, official, employee or invitee of the school district: *Provided further*, That such activity is not conducted in violation of a prohibition or limitation lawfully imposed by the school district upon entry or use of any motor vehicle, building, grounds or other property which is owned, operated or controlled by the school district.

(4) Any person guilty of violating this section shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be fined not more than five hundred dollars, or imprisoned in jail for not more than six months or both so fined and imprisoned. [1975-'76 2nd ex.s. c 100 § 1.]

Severability—1975-'76 2nd ex.s. c 100: "If any provision of this 1976 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-'76 2nd ex.s. c 100 § 3.] This applies to RCW 28A.87.055 and 9.87.010 (void and of no effect after July 1, 1976).

28A.87.060 Disturbing school, school activities or meetings—**Penalty**—**Disposition of fines.** Any person who shall wilfully create a disturbance on school premises during school hours or at school activities or school meetings shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not more than fifty dollars. Said fine, 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. [1969 ex.s. c 199 § 57; 1969 ex.s. c 223 § 28A.87.060. Prior: 1909 c 97 p 361 § 12; RRS § 5055; prior: 1903 c 156 § 12; 1897 c 118 § 170; 1890 p 383 § 87. Formerly RCW 28.87.060.]

28A.87.065 Threats to bomb or injure school buildings—**Penalty.** See RCW 9.61.160 through 9.61.180.

28A.87.070 Examination questions—**Disclosing**—**Penalty**—**Disposition of fines.** Any person having access to any question or questions prepared for the examination of teachers or common school pupils,

who shall directly or indirectly disclose the same before the time appointed for the use of the questions in the examination of such teachers or pupils, or who shall directly or indirectly assist any person to answer any question submitted, shall be guilty of a misdemeanor, the penalty for which shall be a fine in any sum not less than one hundred nor more than five hundred dollars. Said fine shall be turned over to the county treasurer of the county in which it is collected and shall be 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. [1969 ex.s. c 199 § 58; 1969 ex.s. c 223 § 28A.87.070. Prior: 1909 c 97 p 357 § 1; RRS § 5043; prior: 1903 c 156 § 1; 1897 c 118 § 159. Formerly RCW 28.87.070.]

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.87.120 Defacing or injuring school property—Liability of parent or guardian. Any pupil who shall deface or otherwise injure any school property, shall be liable to suspension and punishment. The parent or guardian of such pupil shall be liable for damages as otherwise provided by law. [1969 ex.s. c 223 § 28A.87.120. Prior: 1909 c 97 p 361 § 41; RRS § 5057; prior: 1903 c 156 § 14; 1897 c 118 § 172; 1890 p 372 § 48. Formerly RCW 28.87.120.]

Action against parent for wilful injury to property by minor—Monetary limitation—Common law liability preserved: RCW 4.24.190.

28A.87.130 Property, failure of officials or employees to account for—Mutilation by—Penalties. Any school district official or employee who shall refuse or fail to deliver to his qualified successor all books, papers, and records pertaining to his position, or who shall wilfully mutilate or destroy any such property, or any part thereof, shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed one hundred dollars: *Provided*, That for each day there is a refusal or failure to deliver to a successor books, papers and records, a separate offense shall be deemed to have occurred; said fine, 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 further*, 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. [1969 ex.s. c 199 § 60; 1969 ex.s. c 223 § 28A.87.130. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28.87.130, part.]

28A.87.135 Director's connivance to employ uncertified teachers—Liability. Any school district director who shall aid in or give his consent to the employment of a teacher who is not the holder of a valid teacher's certificate issued under authority of chapter 28A.70 RCW authorizing him to teach in the school district by which employed shall be personally liable to his district for any loss which it may sustain by reason of the employment of such person. [1969 ex.s. c 223 § 28A.87.135. Prior: 1909 c 97 p 359 § 7, part; RRS § 5049, part; prior: 1907 c 240 § 16, part; 1903 c 156 § 7, part; 1897 c 118 § 165, part. Formerly RCW 28.87.130, part, 28.87.160.]

28A.87.140 Teacher's abuse of pupil—Penalty—Disposition of fines. Any teacher who shall maltreat or abuse any pupil by administering any unreasonable punishment, or who shall inflict punishment on the head of a pupil, upon conviction thereof shall be guilty of a misdemeanor, the penalty for which

shall be a fine in any sum not exceeding one hundred dollars. Said fine, 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. [1969 ex.s. c 199 § 61; 1969 ex.s. c 223 § 28A.87.140. Prior: 1909 c 97 p 360 § 9; RRS § 5052; prior: 1903 c 156 § 9; 1897 c 118 § 167; 1890 p 371 § 43; Code 1881 § 3239. Formerly RCW 28.87.140.]

28A.87.151 Courses of study and regulations—Enforcement—Withholding salary warrant for failure. See RCW 28A.67.060.

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.

28A.87.181 United States flag—Procurement, display, exercises—National anthem—Noncompliance, penalty. See RCW 28A.02.030.

28A.87.220 Educational institutions, discrimination because of race, color or creed—Penalty. See RCW 9.91.010.

28A.87.230 Interfering by force or violence with any administrator, teacher or student unlawful. It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, teacher or student of any common school who is in the peaceful discharge or conduct of his duties or studies. [1971 c 45 § 3.]

Severability—1971 c 45: See note following RCW 28B.10.570.

28A.87.231 Intimidating any administrator, teacher or student by threat of force or violence unlawful. It shall be unlawful for any person, singly or in concert with

others, to intimidate by threat of force or violence any administrator, teacher or student of any common school who is in the peaceful discharge or conduct of his duties or studies. [1971 c 45 § 4.]

Severability—1971 c 45: See note following RCW 28B.10.570.

28A.87.232 Violations under RCW 28A.87.230 and 28A.87.231—Disciplinary authority exception. The crimes defined in RCW 28A.87.230 and 28A.87.231 shall not apply to school administrators or teachers who are engaged in the reasonable exercise of their disciplinary authority. [1971 c 45 § 5.]

Severability—1971 c 45: See note following RCW 28B.10.570.

28A.87.233 Violations under RCW 28A.87.230 and 28A.87.231—Penalty. Any person guilty of violating RCW 28A.87.230 and 28A.87.231 shall be deemed guilty of a gross misdemeanor and, upon conviction thereon, shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months or both such fine and imprisonment. [1971 c 45 § 6.]

Severability—1971 c 45: See note following RCW 28B.10.570.

Chapter 28A.88

APPEALS FROM ACTION OR NONACTION OF SCHOOL OFFICIALS AND SCHOOL BOARDS

Sections

28A.88.010 Appeals—Notice of—Scope—Time limitation.

28A.88.013 Transcript filed, certified.

28A.88.015 Appeal to be heard de novo and expeditiously.

28A.88.085 Organization, reorganization of school districts, property adjustments, appeals from.

28A.88.090 Certified copy of decision to county assessor when school district boundaries changed.

Educational employment relations act: Chapter 41.59 RCW.

28A.88.010 Appeals—Notice of—Scope—Time limitation. Any person, or persons, either severally or collectively, aggrieved by any decision or order of any school official or board, within thirty days after the rendition of such decision or order, or of the failure to act upon the same when properly presented, may appeal the same to the superior court of the county in which the school district or part thereof is situated, by filing with the secretary of the school board if the appeal is from board action or failure to act, otherwise with the proper school official, and filing with the clerk of the superior court, a notice of appeal which shall set forth in a clear and concise manner the errors complained of.

Appeals by teachers, principals, supervisors, superintendents, or other certificated employees from the actions of school boards with respect to discharge or other action adversely affecting their contract status, or failure to renew their contracts for the next ensuing term shall be governed by the appeal provisions of chapter 28A.58 RCW therefor and in all other cases shall be governed by this chapter 28A.88 RCW. [1971 ex.s. c 282 § 40; 1969 ex.s. c 34 § 17; 1969 ex.s. c 223 § 28A.88.010. Prior: 1961 c 241 § 9; 1909 c 97 p 362 § 1; RRS § 5064. Formerly RCW 28.88.010.] [SLC-RO-1.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

RCW 28A.88.010 not applicable to contract renewal of school superintendent: RCW 28A.58.137.

28A.88.013 Transcript filed, certified. Within twenty days of service of the notice of appeal, the school board, at its expense, or the school official, at such official's expense, shall file the complete transcript of the evidence and the papers and exhibits relating to the decision for which a complaint has been filed. Such filings shall be certified to be correct. [1971 ex.s. c 282 § 41.]

Severability—1971 ex.s. c 282: See note following RCW 28A.21.010.

28A.88.015 Appeal to be heard de novo and expeditiously. Any appeal to the superior court shall be heard de novo by the superior court. Such appeal shall be heard expeditiously. [1971 ex.s. c 282 § 42.]

Severability—1971 ex.s. c 282: See notes following RCW 28A.21.010.

28A.88.085 Organization, reorganization of school districts, property adjustments, appeals from. See RCW 28A.57.120.

28A.88.090 Certified copy of decision to county assessor when school district boundaries changed. In cases of appeal resulting in the change of any school district boundaries the decision shall within five days thereafter be also certified by the proper officer to the county assessor of the county, or to the county assessors of the counties, wherein the territory may lie. [1969 ex.s. c 223 § 28A.88.090. Prior: 1909 c 97 p 364 § 8; RRS § 5071. Formerly RCW 28.88.090.]

Chapter 28A.91 WASHINGTON STATE EDUCATIONAL TELEVISION COMMISSION

Sections

- 28A.91.010 Commission created.
- 28A.91.020 Members—Appointment—Qualifications.
- 28A.91.030 Members—Terms.
- 28A.91.040 Vacancies, filling of.
- 28A.91.050 Commission offices—Reimbursement of travel expenses of members.
- 28A.91.060 Commission duties.

28A.91.010 Commission created. There is created the "Washington state educational television commission", hereinafter in this chapter referred to as "the commission". [1969 ex.s. c 223 § 28A.91.010. Prior: 1965 ex.s. c 129 § 1. Formerly RCW 28.91.010.]

28A.91.020 Members—Appointment—Qualifications. The commission shall consist of sixteen members who shall be appointed by the governor from a list of nominees submitted by the state superintendent of public instruction, such nominees to be selected from categories which shall include but shall not be limited to representatives of the television industry, public and private colleges, community colleges, universities, the common schools, the office of the superintendent of public

instruction and the general public. [1969 ex.s. c 223 § 28A.91.020. Prior: 1965 ex.s. c 129 § 2. Formerly RCW 28.91.020.]

28A.91.030 Members—Terms. After appointment, the length of the terms of such members shall be decided by lot. Four members shall serve for one year, four members shall serve for two years, four members shall serve for three years, and the remaining four members shall serve for four years. Thereafter all terms shall be for four years. [1969 ex.s. c 223 § 28A.91.030. Prior: 1965 ex.s. c 129 § 3. Formerly RCW 28.91.030.]

28A.91.040 Vacancies, filling of. In case of a vacancy on the commission for any reason, the governor shall appoint a member to fill such vacancy, such appointed member to serve until the expiration of the term which was vacated. [1969 ex.s. c 223 § 28A.91.040. Prior: 1965 ex.s. c 129 § 4. Formerly RCW 28.91.040.]

28A.91.050 Commission offices—Reimbursement of travel expenses of members. The commission shall be housed in the office of the state superintendent of public instruction. Members of the commission shall not receive compensation for their service, but shall be reimbursed for their travel expenses while attending meetings and other activities of the commission in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 70; 1969 ex.s. c 223 § 28A.91.050. Prior: 1965 ex.s. c 129 § 5. Formerly RCW 28.91.050.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

28A.91.060 Commission duties. The duties of the commission shall be to promote the study and effective development of educational television in the state of Washington, making such recommendations to the superintendent of public instruction and to the legislature during the month of November of each even-numbered year, as shall be consistent with the public interest and the rules and regulations promulgated by the United States office of health, education and welfare. [1969 ex.s. c 223 § 28A.91.060. Prior: 1965 ex.s. c 129 § 6. Formerly RCW 28.91.060.]

Chapter 28A.92 COMPACT FOR EDUCATION

Sections

- 28A.92.010 Compact entered into—Terms.
- 28A.92.020 State representation on education commission—Members, both designated and appointed.
- 28A.92.030 State representation on education commission—Terms of appointed members—Filling vacancies.
- 28A.92.040 State representation on education commission—Chairman—Cooperation with other entities—Employees.
- 28A.92.050 State representation on education commission—Compensation and travel expenses for commissioners—Limitations.
- 28A.92.060 State representation on education commission—Grant of powers to commissioners.
- 28A.92.070 State officers to aid in implementation of compact.
- 28A.92.080 Bylaws to be filed with secretary of state.

28A.92.010 Compact entered into—Terms. The Compact for Education is hereby entered into with all jurisdictions joining therein, in the form as follows:

COMPACT FOR EDUCATION

ARTICLE I—PURPOSE AND POLICY

- A. It is the purpose of this compact to:
1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.
 2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.
 3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State Government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.
 4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.
- B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.
- C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

ARTICLE II—STATE DEFINED

As used in this Compact, "State" means a State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III—THE COMMISSION

- A. The Education Commission of the States, hereinafter called "the Commission", is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor; two shall be members of the State legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and

serve at the pleasure of the Governor, unless the laws of the State otherwise provide. If the laws of a State prevent legislators from serving on the Commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State, shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the state education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten non-voting commissioners selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.

- B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the Commissioners are present. The Commission shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the Executive Director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(J).
- C. The Commission shall have a seal.
- D. The Commission shall elect annually, from among its members, a chairman, who shall be a Governor, a vice chairman and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.
- E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission,

and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.

- F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.
- G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (F) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.
- H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.
- I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.
- J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV—POWERS

In addition to authority conferred on the Commission by other provisions of the compact, the Commission shall have authority to:

- 1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
- 2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.
- 3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
- 4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher

education, and other agencies and institutions, both public and private.

5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.

6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V—COOPERATION WITH FEDERAL GOVERNMENT

- A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.
- B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI—COMMITTEES

- A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-fourth of the voting membership of the steering committee shall consist of Governors, one-fourth shall consist of Legislators, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: sixteen for one year and sixteen for two years. The chairman, vice chairman, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.

- B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States. The Commission may establish such additional committees as its bylaws may provide.
- C. The Commission may establish such additional committees as its bylaws may provided.

ARTICLE VII—FINANCE

- A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.
- B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.
- C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(G) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III(G) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.
- D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.
- E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.
- F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII—ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

- A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. In respect of any such jurisdiction not having a Governor, the term "Governor", as used in this compact, shall mean the closest equivalent official of such jurisdiction.
- B. Any state or other eligible jurisdiction may enter into this compact and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least ten eligible party jurisdictions shall be required.
- C. Adoption of the compact may be either by enactment thereof or by adherence thereto by the Governor; provided that in the absence of enactment, adherence by the Governor shall be sufficient to make his State a party only until December 31, 1967. During any period when a State is participating in this compact through gubernatorial action, the Governor shall appoint those persons who, in addition to himself, shall serve as the members of the Commission from his State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him.
- D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

ARTICLE IX—CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters. [1969 ex.s. c 223 § 28A.92.010. Prior: 1967 c 83 § 1. Formerly RCW 28.92.010.]

28A.92.020 State representation on education commission—Members, both designated and appointed. The seven members of the education commission of the

states representing the state of Washington are designated or shall be appointed as follows: (1) The governor; (2) a member of the senate appointed by the president; (3) a member of the house of representatives appointed by the speaker; and (4) four members appointed by the governor. Appointments shall be made in accordance with the guiding principles set forth in Article III(A) of the compact. [1969 ex.s. c 223 § 28A.92.020. Prior: 1967 c 83 § 2. Formerly RCW 28.92.020.]

28A.92.030 State representation on education commission—Terms of appointed members—Filling vacancies. The term of the members appointed by the president and the speaker shall be dependent upon continued membership in the house from which appointed and shall expire upon the adjournment sine die of the regular session of the legislature next succeeding the appointment of such member. Vacancies occurring during the term shall be filled for the unexpired term by the appointment of a successor in the same manner as for the vacating member. Members appointed by the governor shall serve at his pleasure. [1969 ex.s. c 223 § 28A.92.030. Prior: 1967 c 83 § 3. Formerly RCW 28.92.030.]

28A.92.040 State representation on education commission—Chairman—Cooperation with other entities—Employees. The governor or a member designated by him shall be chairman of the members of the commission representing this state.

The commissioners shall cooperate with all public and private entities having an interest in educational matters.

The commissioners may employ such professional, technical and clerical assistance as may be required to aid them in carrying out their functions in this chapter prescribed. [1969 ex.s. c 223 § 28A.92.040. Prior: 1967 c 83 § 4. Formerly RCW 28.92.040.]

28A.92.050 State representation on education commission—Compensation and travel expenses for commissioners—Limitations. Each member of the commission from the state of Washington shall be paid, from funds appropriated by the legislature of the state of Washington for that purpose, the sum of twenty-five dollars per day for each day or major part thereof devoted to the business of the commission, together with travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. In no event shall such commissioner's payments for other than travel expenses exceed fifteen hundred dollars in any one year. Such member may, regardless of any charter or statutory provision to the contrary, be an officer or employee holding another public position. [1975-'76 2nd ex.s. c 34 § 71; 1969 ex.s. c 223 § 28A.92.050. Prior: 1967 c 83 § 5. Formerly RCW 28.92.050.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

28A.92.060 State representation on education commission—Grant of powers to commissioners. There is hereby granted to the commissioners representing this state all the powers provided for in said compact and all

powers necessary or incidental to the carrying out of said compact in every particular. [1969 ex.s. c 223 § 28A.92.060. Prior: 1967 c 83 § 6. Formerly RCW 28.92.060.]

28A.92.070 State officers to aid in implementation of compact. All officers of this state are hereby authorized and directed to do all things, falling within their respective provinces and jurisdiction, necessary to or incidental to the carrying out of the compact for education in every particular. All officers, bureaus, departments and persons of and in the government or administration of this state are hereby authorized and directed, at convenient times and upon the request of the commissioners representing this state, to furnish the education commission with information and data possessed by them or any of them, and to aid the commission by any means lying within their legal powers respectively. [1969 ex.s. c 223 § 28A.92.070. Prior: 1967 c 83 § 7. Formerly RCW 28.92.070.]

28A.92.080 Bylaws to be filed with secretary of state. Pursuant to Article III(I) of the compact, the commission shall file a copy of its bylaws and any amendment thereto with the secretary of state. [1969 ex.s. c 223 § 28A.92.080. Prior: 1967 c 83 § 8. Formerly RCW 28.92.080.]

Chapter 28A.93

INTERSTATE AGREEMENT ON QUALIFICATIONS OF EDUCATIONAL PERSONNEL

Sections

- 28A.93.010 Compact entered into—Terms.
- 28A.93.020 Superintendent as "designated state official", compact administrator—Board to approve text of contracts.
- 28A.93.030 True copies of contracts filed in office of superintendent—Publication.

28A.93.010 Compact entered into—Terms. The Interstate Agreement on Qualifications of Educational Personnel is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I

1. The states party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this Agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states or origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II

As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his state, contracts pursuant to this Agreement.

3. "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating State" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving State" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

Article III

1. The designated state official of a party state may make one or more contracts on behalf of his state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this Agreement. A designated state official may enter into a contract pursuant to this Article only with states in which he finds that there are programs of education, certification standards or other acceptable qualifications that assure preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his own state.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this Agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

Article VII

Nothing in this Agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII

1. This Agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this Agreement.

2. Any party state may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution of any state participating therein, the Agreement shall remain in full force and effect as to the state affected as to all severable matters. [1969 ex.s. c 283 § 4. Formerly RCW 28.93.010.]

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

28A.93.020 Superintendent as "designated state official", compact administrator—Board to approve text of contracts. The "designated state official" for this state under Article II of RCW 28A.93.010 shall be the superintendent of public instruction, who shall be the compact administrator and who shall have power to promulgate rules to carry out the terms of this compact. The superintendent of public instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the state board of education. [1969 ex.s. c 283 § 5. Formerly RCW 28.93.020.]

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

28A.93.030 True copies of contracts filed in office of superintendent—Publication. True copies of all contracts made on behalf of this state pursuant to the Agreement as provided in RCW 28A.93.010 shall be kept on file in the office of the superintendent of public instruction. The superintendent of public instruction shall publish all such contracts in convenient form. [1969 ex.s. c 283 § 6. Formerly RCW 28.93.030.]

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

Chapter 28A.98 CONSTRUCTION

Sections

- 28A.98.010 Repeals and savings.
- 28A.98.011 Repeal—1970 act.
- 28A.98.012 Repeal—1971 act.
- 28A.98.020 Intermediate district board member elections.
- 28A.98.030 Continuation of existing law.
- 28A.98.040 Provisions to be construed in pari materia.
- 28A.98.050 Title, chapter, section headings not part of law.
- 28A.98.060 Invalidity of part of title not to affect remainder.
- 28A.98.070 "This code" defined.
- 28A.98.080 Effective date—1969 ex.s. c 223.

28A.98.010 Repeals and savings. The following acts or parts of acts are hereby repealed:

- (1) Chapter 12, Laws of 1967;
- (2) Chapter 29, Laws of 1967;
- (3) Chapter 64, Laws of 1967;
- (4) Chapter 83, Laws of 1967;
- (5) Sections 1 and 2, 4 through 10, 12 and 13, chapter 118, Laws of 1967;
- (6) Sections 1 through 4, and 6, chapter 158, Laws of 1967;
- (7) Chapter 220, Laws of 1967;
- (8) Sections 27 through 29, 41 through 43, 45, 46 and 76, chapter 8, Laws of 1967 extraordinary session;
- (9) Chapter 17, Laws of 1967 extraordinary session;
- (10) Chapter 21, Laws of 1967 extraordinary session;
- (11) Section 1, chapter 29, Laws of 1967 extraordinary session;
- (12) Chapter 56, Laws of 1967 extraordinary session;
- (13) Chapter 67, Laws of 1967 extraordinary session;
- (14) Chapter 69, Laws of 1967 extraordinary session;
- (15) Chapter 92, Laws of 1967 extraordinary session;
- (16) Chapter 140, Laws of 1967 extraordinary session;
- (17) Sections 1 through 3, and 61, chapter 149, Laws of 1967 extraordinary session;
- (18) Chapter 18, Laws of 1965;
- (19) Section 1, chapter 54, Laws of 1965;
- (20) Chapter 62, Laws of 1965;
- (21) Chapter 103, Laws of 1965;
- (22) Section 1, chapter 111, Laws of 1965;
- (23) Section 8, chapter 123, Laws of 1965;
- (24) Sections 1 through 22, and 25, chapter 139, Laws of 1965;
- (25) Chapter 143, Laws of 1965;
- (26) Chapter 49, Laws of 1965 extraordinary session;
- (27) Chapter 86, Laws of 1965 extraordinary session;
- (28) Chapter 87, Laws of 1965 extraordinary session;

- (29) Chapter 108, Laws of 1965 extraordinary session;
- (30) Sections 1 through 19, chapter 124, Laws of 1965 extraordinary session;
- (31) Chapter 129, Laws of 1965 extraordinary session;
- (32) Sections 1 through 11, and 13, chapter 154, Laws of 1965 extraordinary session;
- (33) Chapter 158, Laws of 1965 extraordinary session;
- (34) Chapter 162, Laws of 1965 extraordinary session;
- (35) Sections 1 through 3, and 5, chapter 171, Laws of 1965 extraordinary session;
- (36) Chapter 5, Laws of 1963;
- (37) Chapter 30, Laws of 1963;
- (38) Chapter 31, Laws of 1963;
- (39) Chapter 32, Laws of 1963;
- (40) Chapter 41, Laws of 1963;
- (41) Chapter 47, Laws of 1963;
- (42) Chapter 61, Laws of 1963;
- (43) Chapter 67, Laws of 1963;
- (44) Chapter 104, Laws of 1963;
- (45) Chapter 135, Laws of 1963;
- (46) Chapter 208, Laws of 1963;
- (47) Chapter 223, Laws of 1963;
- (48) Chapter 235, Laws of 1963;
- (49) Chapter 26, Laws of 1963 extraordinary session;
- (50) Chapter 47, Laws of 1961;
- (51) Section 1, chapter 66, Laws of 1961;
- (52) Chapter 98, Laws of 1961;
- (53) Chapter 116, Laws of 1961;
- (54) Chapter 123, Laws of 1961;
- (55) Section 23, chapter 130, Laws of 1961;
- (56) Section 1, chapter 224, Laws of 1961;
- (57) Chapter 237, Laws of 1961;
- (58) Chapter 238, Laws of 1961;
- (59) Chapter 241, Laws of 1961;
- (60) Section 15, chapter 268, Laws of 1961;
- (61) Chapter 305, Laws of 1961;
- (62) Chapter 3, Laws of 1961 extraordinary session;
- (63) Chapter 122, Laws of 1959;
- (64) Sections 1 and 2, chapter 169, Laws of 1959;
- (65) Chapter 208, Laws of 1959;
- (66) Sections 1, 4 through 14, and 16 through 31, chapter 216, Laws of 1959;
- (67) Sections 1 through 9, and 11, chapter 262, Laws of 1959;
- (68) Chapter 264, Laws of 1959;
- (69) Chapter 268, Laws of 1959;
- (70) Chapter 271, Laws of 1959;
- (71) Sections 1 and 3, chapter 276, Laws of 1959;
- (72) Chapter 8, Laws of 1959 extraordinary session;
- (73) Chapter 67, Laws of 1957;
- (74) Chapter 129, Laws of 1957;
- (75) Chapter 155, Laws of 1957;
- (76) Chapter 223, Laws of 1957;
- (77) Chapter 234, Laws of 1957;
- (78) Chapter 281, Laws of 1957;
- (79) Chapter 296, Laws of 1957;
- (80) Chapter 8, Laws of 1955;
- (81) Sections 2 and 3, chapter 20, Laws of 1955;
- (82) Section 11, chapter 55, Laws of 1955;
- (83) Chapter 68, Laws of 1955;
- (84) Chapter 132, Laws of 1955;
- (85) Sections 2 through 4, and 12 through 33, chapter 157, Laws of 1955;
- (86) Sections 2 and 9, chapter 187, Laws of 1955;
- (87) Sections 1 through 8, chapter 218, Laws of 1955;
- (88) Chapter 256, Laws of 1955;
- (89) Chapter 344, Laws of 1955;
- (90) Chapter 350, Laws of 1955;
- (91) Chapter 371, Laws of 1955;
- (92) Chapter 395, Laws of 1955;
- (93) Chapter 3, Laws of 1955 extraordinary session;
- (94) Chapter 49, Laws of 1953;
- (95) Chapter 94, Laws of 1953;
- (96) Sections 1, 2, 5 and 6, chapter 111, Laws of 1953;
- (97) Chapter 135, Laws of 1953;
- (98) Chapter 158, Laws of 1953;
- (99) Section 1, chapter 163, Laws of 1953;
- (100) Sections 1 and 3, chapter 225, Laws of 1953;
- (101) Chapter 226, Laws of 1953;
- (102) Chapter 229, Laws of 1953;
- (103) Section 1, chapter 282, Laws of 1953;
- (104) Chapter 7, Laws of 1953 extraordinary session;
- (105) Chapter 27, Laws of 1951;
- (106) Chapter 87, Laws of 1951;
- (107) Chapter 88, Laws of 1951;
- (108) Chapter 92, Laws of 1951;
- (109) Chapter 147, Laws of 1951;
- (110) Section 2, chapter 257, Laws of 1951;
- (111) Sections 1 and 2, and 5 through 12, chapter 11, Laws of 1951 first extraordinary session;
- (112) Chapter 5, Laws of 1951 second extraordinary session;
- (113) Chapter 19, Laws of 1951 second extraordinary session;
- (114) Chapter 32, Laws of 1949;
- (115) Chapter 54, Laws of 1949;
- (116) Chapter 108, Laws of 1949;
- (117) Chapter 186, Laws of 1949;
- (118) Chapter 209, Laws of 1949;
- (119) Chapter 212, Laws of 1949;
- (120) Chapter 229, Laws of 1949;
- (121) Chapter 31, Laws of 1947;
- (122) Chapter 169, Laws of 1947;
- (123) Chapter 258, Laws of 1947;
- (124) Sections 1 through 40, 42 and 43, chapter 266, Laws of 1947;
- (125) Sections 1 through 9, 11 and 12, chapter 278, Laws of 1947;
- (126) Chapter 29, Laws of 1945;
- (127) Chapter 32, Laws of 1945;
- (128) Sections 1 through 14, and 17, chapter 141, Laws of 1945;
- (129) Sections 1 and 3 through 10, chapter 247, Laws of 1945;
- (130) Sections 1, 2 and 4, chapter 51, Laws of 1943;
- (131) Chapter 120, Laws of 1943;
- (132) Chapter 220, Laws of 1943;
- (133) Chapter 12, Laws of 1941;
- (134) Chapter 102, Laws of 1941;

- (135) Chapter 187, Laws of 1941;
 (136) Chapter 202, Laws of 1941;
 (137) Section 1, chapter 203, Laws of 1941;
 (138) Chapter 251, Laws of 1941;
 (139) Chapter 160, Laws of 1939;
 (140) Sections 1 through 4, and 6, chapter 183, Laws of 1939;
 (141) Chapter 52, Laws of 1937;
 (142) Chapter 60, Laws of 1937;
 (143) Chapter 198, Laws of 1937;
 (144) Chapter 226, Laws of 1937;
 (145) Chapter 15, Laws of 1935;
 (146) Chapter 19, Laws of 1935;
 (147) Chapter 99, Laws of 1935;
 (148) Sections 1 through 15, chapter 28, Laws of 1933;
 (149) Chapter 80, Laws of 1933;
 (150) Chapter 176, Laws of 1933;
 (151) Chapter 103, Laws of 1931;
 (152) Chapter 77, Laws of 1929;
 (153) Chapter 99, Laws of 1927;
 (154) Chapter 102, Laws of 1927;
 (155) Chapter 181, Laws of 1927;
 (156) Chapter 65, Laws of 1925 extraordinary session;
 (157) Chapter 93, Laws of 1925 extraordinary session;
 (158) Chapter 134, Laws of 1925 extraordinary session;
 (159) Chapter 139, Laws of 1925 extraordinary session;
 (160) Chapter 76, Laws of 1923;
 (161) Chapter 96, Laws of 1923;
 (162) Chapter 103, Laws of 1923;
 (163) Chapter 152, Laws of 1923;
 (164) Sections 1 through 5, and 7, chapter 175, Laws of 1923;
 (165) Chapter 147, Laws of 1921;
 (166) Chapter 190, Laws of 1921;
 (167) Chapter 27, Laws of 1919;
 (168) Chapter 38, Laws of 1919;
 (169) Chapter 89, Laws of 1919;
 (170) Sections 1 through 23, chapter 91, Laws of 1919;
 (171) Sections 1 through 13, chapter 151, Laws of 1919;
 (172) Chapter 156, Laws of 1919;
 (173) Chapter 160, Laws of 1919;
 (174) Chapter 21, Laws of 1917;
 (175) Chapter 48, Laws of 1917;
 (176) Chapter 126, Laws of 1917;
 (177) Chapter 127, Laws of 1917;
 (178) Chapter 71, Laws of 1915;
 (179) Chapter 162, Laws of 1915;
 (180) Chapter 129, Laws of 1913;
 (181) Chapter 136, Laws of 1913;
 (182) Chapter 158, Laws of 1913;
 (183) Chapter 16, Laws of 1911;
 (184) Chapter 78, Laws of 1911;
 (185) Chapter 79, Laws of 1911;
 (186) Chapter 82, Laws of 1911;
 (187) Chapter 85, Laws of 1911;
 (188) Chapter 88, Laws of 1911;
 (189) Chapter 118, Laws of 1911;
 (190) Chapter 97, Title I, subchapters 1, 2 and 3, Title III, subchapters 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19, and Title IV, subchapter 1, sections 1 and 2, Laws of 1909;
 (191) Chapter 106, Laws of 1909;
 (192) Chapter 15, Laws of 1909 extraordinary session;
 (193) Sections 1 through 17, chapter 240, Laws of 1907;
 (194) Sections 1 through 5, chapter 77, Laws of 1903;
 (195) Sections 1 through 176, 180 and 181, Laws of 1897;
 (196) Chapter 109, Laws of 1893;
 (197) Sections 1 through 28, chapter 127, Laws of 1891;
 (198) Sections 1 through 91, and 93, chapter XII, pages 348 through 385, Laws of 1889–90;
 (199) Sections 1 through 32, chapter XII, pages 386 through 395, Laws of 1889–90;
 (200) Sections 1 through 93, and 95, pages 3 through 28, Laws of 1886; and
 (201) Sections 3154 through 3241, chapter CCXLV, Code of 1881.
- Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor any criminal or civil proceeding instituted thereunder, nor the term of office or election or appointment or employment of any person elected, appointed or employed thereunder. [1969 ex.s. c 223 § 28A.98.010.]

28A.98.011 Repeal—1970 act. The following acts or parts of acts are hereby repealed:

(1) section 2, chapter 97, page 262, Laws of 1909 as amended by section 1, chapter 71, Laws of 1969 and RCW 28.05.010;

(2) section 2, chapter 71, Laws of 1969 and RCW 28.05.015;

(3) sections 1, 4 and 5, chapter 56, Laws of 1967 ex. sess. as amended by sections 1, 2 and 3, chapter 77, Laws of 1969 and RCW 28.47.784, 28.47.787 and 28.47.788;

(4) section 1, chapter 54, Laws of 1965 as amended by section 1, chapter 97, Laws of 1969 and RCW 28.02.120;

(5) section 31, chapter 157, Laws of 1955 as last amended by section 2, chapter 105, Laws of 1969 and RCW 28.10.080;

(6) section 5, chapter 169, Laws of 1947 as last amended by section 1, chapter 125, Laws of 1969 and RCW 28.58.360;

(7) section 10, chapter 266, Laws of 1947 as last amended by section 4, chapter 131, Laws of 1969 and RCW 28.57.338;

(8) sections 5 and 6, chapter 131, Laws of 1969 and RCW 28.57.425 and 28.57.426;

- (9) section 13, chapter 268, Laws of 1959 as amended by section 7, chapter 131, Laws of 1969 and RCW 28.57.430;
- (10) section 2, chapter 154, Laws of 1965 ex. sess. as last amended by section 1, chapter 138, Laws of 1969 and RCW 28.41.130;
- (11) section 1, page 324, Laws of 1909 as last amended by section 1, chapter 142, Laws of 1969 and RCW 28.51.010;
- (12) section 1, chapter 92, Laws of 1951 as amended by section 1, chapter 2, Laws of 1969 ex. sess. and RCW 28.13.010;
- (13) section 6, chapter 154, Laws of 1965 ex. sess. as amended by section 1, chapter 3, Laws of 1969 ex. sess. and RCW 28.41.170;
- (14) section 15, chapter 268, Laws of 1961 as amended by section 1, chapter 26, Laws of 1969 ex. sess. and RCW 28.58.310;
- (15) sections 2, 3, 5 and 6, chapter 241, Laws of 1961 as amended by sections 2, 3, 4 and 5, chapter 34, Laws of 1969 ex. sess. and RCW 28.58.450, 28.58.460, 28.58.480 and 28.58.490;
- (16) section 1, page 362, Laws of 1909 as last amended by section 6, chapter 34, Laws of 1969 ex. sess. and RCW 28.88.010;
- (17) sections 7 through 11, chapter 34, Laws of 1969 ex. sess. and RCW 28.58.515, 28.19.601, 28.19.602, 28.58.445 and 28.67.065;
- (18) section 1, chapter 224, Laws of 1961 as amended by section 1, chapter 49, Laws of 1969 ex. sess. and RCW 28.58.135;
- (19) sections 6 and 7, chapter 143, Laws of 1965 as amended by sections 1 and 2, chapter 52, Laws of 1969 ex. sess. and RCW 28.72.060 and 28.72.070;
- (20) section 1, chapter 203, Laws of 1941 as last amended by section 1, chapter 57, Laws of 1969 ex. sess. and RCW 28.05.050;
- (21) section 1, page 364, Laws of 1909 as amended by section 1, chapter 109, Laws of 1969 ex. sess. and RCW 28.27.010;
- (22) sections 2 and 3, chapter 124, Laws of 1965 ex. sess. as amended by sections 1 and 2, chapter 119, Laws of 1969 ex. sess. and RCW 28.65.010 and 28.65.020;
- (23) section 3, chapter 119, Laws of 1969 ex. sess. and RCW 28.65.095;
- (24) sections 5, 7, 9, 10, 11, 12 and 14, chapter 124, Laws of 1965 ex. sess. as amended by sections 4, 5, 6, 7, 8, 9 and 10, chapter 119, Laws of 1969 ex. sess. and RCW 28.65.040, 28.65.060, 28.65.080, 28.65.090, 28.65.100, 28.65.110 and 28.65.120;
- (25) sections 11, 12 and 13, chapter 119, Laws of 1969 ex. sess. and RCW 28.65.180, 28.65.141 and 28.65.142;
- (26) sections 16 and 18, chapter 124, Laws of 1965 ex. sess. as amended by sections 14 and 17, chapter 119, Laws of 1969 ex. sess. and RCW 28.65.150 and 28.65.170;
- (27) sections 15 and 16, chapter 119, Laws of 1969 ex. sess. and RCW 28.65.153 and 28.65.155;
- (28) section 4, chapter 76, Laws of 1957 as last amended by section 22, chapter 150, Laws of 1969 ex. sess. and RCW 28.81.170;
- (29) section 2, chapter 153, Laws of 1969 ex. sess. and RCW 28.04.125;
- (30) section 2, page 230, chapter 97, Laws of 1909 as amended by section 31, chapter 176, Laws of 1969 ex. sess. and RCW 28.02.020;
- (31) section 3, chapter 20, Laws of 1955 as amended by section 15, chapter 283, Laws of 1969 ex. sess. and RCW 28.02.070;
- (32) section 3, page 231, chapter 97, Laws of 1909 as last amended by section 33, chapter 176, Laws of 1969 ex. sess. and RCW 28.03.030;
- (33) section 2, chapter 49, Laws of 1965 ex. sess. as last amended by section 34, chapter 176, Laws of 1969 ex. sess. and RCW 28.03.050;
- (34) sections 7 and 10, chapter 154, Laws of 1965 ex. sess. as amended by sections 35 and 36, chapter 176, Laws of 1969 ex. sess. and RCW 28.24.080 and 28.24.110;
- (35) sections 4 and 9, pages 365 and 367, chapter 97, Laws of 1909 as amended by sections 37 and 38, chapter 176, Laws of 1969 ex. sess. and RCW 28.27.040 and 28.27.080;
- (36) section 9, chapter 141, Laws of 1945 as last amended by section 41, chapter 176, Laws of 1969 ex. sess. and RCW 28.48.030;
- (37) sections 5 and 6, pages 312 and 313, chapter 97, Laws of 1909 as last amended by sections 42 and 43, chapter 176, Laws of 1969 ex. sess. and RCW 28.48.050 and 28.48.055;
- (38) section 1, chapter 139, Laws of 1925 ex. sess. as amended by section 44, chapter 176, Laws of 1969 ex. sess. and RCW 28.48.060;
- (39) section 13, page 314, chapter 97, Laws of 1909 as amended by section 45, chapter 176, Laws of 1969 ex. sess. and RCW 28.48.090;
- (40) section 1, page 309, chapter 97, Laws of 1909 as last amended by section 46, chapter 176, Laws of 1969 ex. sess. and RCW 28.48.100;
- (41) sections 11 and 12, chapter 266, Laws of 1947 as amended by sections 47 and 48, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.030 and 28.57.040;
- (42) section 13, chapter 266, Laws of 1947 as last amended by section 49, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.050;
- (43) sections 19 and 21, chapter 266, Laws of 1947 as last amended by sections 50 and 51, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.070 and 28.57.090;
- (44) sections 3 and 9, chapter 266, Laws of 1947 as amended by sections 52 and 53, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.130 and 28.57.140;
- (45) section 5, chapter 266, Laws of 1947 as last amended by section 54, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.150;
- (46) section 15, chapter 266, Laws of 1947 as amended by section 55, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.170;
- (47) section 16, chapter 266, Laws of 1947 as last amended by section 56, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.180;
- (48) sections 17, 18 and 26, chapter 266, Laws of 1947 as amended by sections 57, 58 and 59, chapter 176,

Laws of 1969 ex. sess. and RCW 28.57.190, 28.57.200 and 28.57.240;

(49) section 5, chapter 268, Laws of 1959 as amended by section 60, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.245;

(50) section 23, chapter 130, Laws of 1961 as amended by section 61, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.255;

(51) sections 28, 31 and 32, chapter 266, Laws of 1947 as amended by sections 62, 63 and 64, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.260, 28.57.290 and 28.57.300;

(52) sections 24 and 34, chapter 266, Laws of 1947 as last amended by sections 65 and 66, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.350 and 28.57.370;

(53) section 38, chapter 266, Laws of 1947 as amended by section 67, chapter 176, Laws of 1969 ex. sess. and RCW 28.57.390;

(54) section 1, chapter 30, Laws of 1963 as amended by section 68, chapter 176, Laws of 1969 ex. sess. and RCW 28.58.530;

(55) section 43, chapter 118, Laws of 1897 as last amended by section 70, chapter 176, Laws of 1969 ex. sess. and RCW 28.70.040;

(56) section 2, page 338, chapter 97, Laws of 1909 as last amended by section 71, chapter 176, Laws of 1969 ex. sess. and RCW 28.70.060;

(57) sections 3 and 5, pages 336 and 337, chapter 97, Laws of 1909 as last amended by sections 72 and 73, chapter 176, Laws of 1969 ex. sess. and RCW 28.70.110 and 28.70.140;

(58) section 21, chapter 139, Laws of 1965 as amended by section 74, chapter 176, Laws of 1969 ex. sess. and RCW 28.71.100;

(59) section 5, chapter 128, Laws of 1917 as last amended by section 75, chapter 176, Laws of 1969 ex. sess. and RCW 28.81.100;

(60) section 2, page 357, chapter 97, Laws of 1909 as amended by section 77, chapter 176, Laws of 1969 ex. sess. and RCW 28.87.050;

(61) section 1, chapter 126, Laws of 1917 as amended by section 80, chapter 176, Laws of 1969 ex. sess. and RCW 28.87.090;

(62) sections 4, 5 and 15, pages 358 and 361, chapter 97, Laws of 1909 as amended by sections 81, 82 and 83, chapter 176, Laws of 1969 ex. sess. and RCW 28.87-.100, 28.87.110 and 28.87.170;

(63) section 2, page 363, chapter 97, Laws of 1909 as last amended by section 84, chapter 176, Laws of 1969 ex. sess. and RCW 28.88.020;

(64) section 3, page 298 and section 3, page 301, chapter 97, Laws of 1909 as amended by sections 85 and 86, chapter 176, Laws of 1969 ex. sess. and RCW 28.63.020 and 28.63.022;

(65) section 3, chapter 169, Laws of 1947 as amended by section 2, chapter 184, Laws of 1969 ex. sess. and RCW 28.58.340;

(66) section 1, chapter 196, Laws of 1969 ex. sess. and RCW 28.81.055;

(67) section 11, page 368, Laws of 1909 as amended by section 43, chapter 199, Laws of 1969 ex. sess. and RCW 28.27.104;

(68) section 5, chapter 77, Laws of 1903 as amended by section 44, chapter 199, Laws of 1969 ex. sess. and RCW 28.27.190;

(69) section 2, chapter 106, Laws of 1909 as amended by section 45, chapter 199, Laws of 1969 ex. sess. and RCW 28.58.281;

(70) section 11, page 360, section 12, page 361, section 7, page 359 and section 9, page 360, Laws of 1909 as amended by sections 46 through 52, chapter 199, Laws of 1969 ex. sess. and RCW 28.87.010, 28.87.060, 28.87.130 and 28.87.140;

(71) section 13, chapter 244, Laws of 1969 ex. sess. and RCW 28.41.140;

(72) section 2, chapter 217, Laws of 1969 ex. sess. and RCW 28.41.145;

(73) section 1, chapter 191, Laws of 1959 as amended by section 1, chapter 222, Laws of 1969 ex. sess. and RCW 28.76.420;

(74) sections 4, 7 and 8, chapter 229, Laws of 1961 as amended by sections 6, 7 and 8, chapter 232, Laws of 1969 ex. sess. and RCW 28.76.192, 28.76.194 and 28.76.200; repealing section 3, chapter 284, Laws of 1947 as amended by section 9, chapter 232, Laws of 1969 ex. sess. and RCW 28.77.370;

(75) section 4, chapter 254, Laws of 1957 as last amended by section 10, chapter 232, Laws of 1969 ex. sess. and RCW 28.77.530;

(76) section 8, chapter 193, Laws of 1959 as amended by section 11, chapter 232, Laws of 1969 ex. sess. and RCW 28.77.547;

(77) sections 4 and 7, chapter 12, Laws of 1961 ex. sess. as amended by sections 12 and 13, chapter 232, Laws of 1969 ex. sess. and RCW 28.80.530 and 28.80.560;

(78) section 39, chapter 8, Laws of 1967 ex. sess. as amended by section 36, chapter 232, Laws of 1969 ex. sess. and RCW 28.85.390;

(79) section 12, page 329, Laws of 1909 as last amended by section 66, chapter 232, Laws of 1969 ex. sess. and RCW 28.51.180;

(80) sections 5 and 6, pages 333 and 334, Laws of 1909 as amended by sections 67 and 68, chapter 232, Laws of 1969 ex. sess. and RCW 28.52.050 and 28.52.055;

(81) section 4, chapter 14, Laws of 1961 ex. sess. as amended by section 69, chapter 232, Laws of 1969 ex. sess. and RCW 28.81.530;

(82) section 8, chapter 14, Laws of 1961 ex. sess. as amended by section 70, chapter 232, Laws of 1969 ex. sess. and RCW 28.81.570;

(83) section 1, chapter 187, Laws of 1959 as last amended by section 2, chapter 237, Laws of 1969 ex. sess. and RCW 28.76.410;

(84) sections 32 and 37, chapter 81, Laws of 1967 ex. sess. as amended by sections 1 and 4, chapter 238, Laws of 1969 ex. sess. and RCW 28.85.320 and 28.85.370;

(85) sections 2, 3, 5, 6, 9, 10, 24, 25 and 31, chapter 8, Laws of 1967 ex. sess. as amended by sections 2, 3, 4, 5, 6, 7, 9, 10 and 11, chapter 261, Laws of 1969 ex. sess. and RCW 28.85.020, 28.85.030, 28.85.050, 28.85.060, 28.85.090, 28.85.100, 28.85.240, 28.85.250 and 28.85-.310;

(86) section 15, chapter 261, Laws of 1969 ex. sess. and RCW 28.85.535;

(87) section 5, chapter 139, Laws of 1921 as last amended by section 3, chapter 269, Laws of 1969 ex. sess. and RCW 28.77.070;

(88) section 4, chapter 164, Laws of 1921 as amended by section 4, chapter 269, Laws of 1969 ex. sess. and RCW 28.80.060;

(89) section 5, chapter 269, Laws of 1969 ex. sess. and RCW 28.81.084;

(90) section 6, page 308, Laws of 1909 as amended by section 14, chapter 283, Laws of 1969 ex. sess. and RCW 28.02.060;

(91) section 3, chapter 258, Laws of 1947 as last amended by section 16, chapter 283, Laws of 1969 ex. sess. and RCW 28.04.060;

(92) section 3, chapter 49, Laws of 1965 ex. sess. as amended by section 18, chapter 283, Laws of 1969 ex. sess. and RCW 28.67.076;

(93) sections 17 and 58, chapter 8, Laws of 1967 ex. sess. as amended by sections 20 and 21, chapter 283, Laws of 1969 ex. sess. and RCW 28.85.170 and 28.85.580;

(94) RCW 28.47.792 through 28.47.799, 28.10.100 through 28.10.110, 28.75.010 through 28.75.220 and 28.75.900 through 28.75.930, 28.75.230, 28.77.235, 28.80.246, 28.85.221, 28.19.500 through 28.19.595 and 28.19.600 through 28.19.610; 28.76.421; 28.76.540; 28.47.800 through 28.47.811; 28.85.875; 28.90.100 through 28.90.180; 28.77.215; 28.76.560, 28.89.010 through 28.89.120, 28.89.900 and 28.89.910; 28.67.066, 28.67.074, 28.76.570, 28.93.010 through 28.93.030, 28.85.551, 28.58.610, 28.02.061, 28.85.850 through 28.85.869; 28.85.572 through 28.85.575, 28.85.145, 28.85.245, 28.85.246, 28.96.010 through 28.96.100 and 28.96.300. [1970 ex.s. c 16 § 1.]

Effective date—1970 ex.s. c 16: "This 1970 amendatory act shall be effective at such time as chapter 223, Laws of 1969 ex. sess. becomes effective." [1970 ex.s. c 16 § 2.] This applies to RCW 28A.98.011 above. Chapter 223, Laws of 1969 ex. sess. is effective July 1, 1970; see RCW 28A.98.080 and 28B.98.080.

28A.98.012 Repeal—1971 act. The following acts or parts of acts are each hereby repealed:

(1) Section 2, chapter 244, Laws of 1969 ex. sess., section 4, chapter 42, Laws of 1970 ex. sess. and RCW 28.47.801;

(2) Section 1, page 324, Laws of 1909, section 12, chapter 90, Laws of 1919, section 1, chapter 147, Laws of 1921, section 1, chapter 99, Laws of 1927, section 1, chapter 163, Laws of 1953, section 1, chapter 142, Laws of 1969, section 6, chapter 42, Laws of 1970 ex. sess. and RCW 28.51.010;

(3) Section 2, page 324, Laws of 1909, section 8, chapter 42, Laws of 1970 ex. sess. and RCW 28.51.020; and

(4) Section 1, chapter 62, Laws of 1965, section 10, chapter 42, Laws of 1970 ex. sess. and RCW 28.58.550. [1971 c 8 § 6.]

Severability—1971 c 8: See note following RCW 28A.58.435.

28A.98.020 Intermediate district board member elections. Notwithstanding the provisions of section 28A.98.010 above, at the time of the next regular school election at which any intermediate district board members are to be elected, the members from intermediate board-member districts 1, 2 and 3 shall be elected for terms of two years and until their respective successors are elected and qualified and the members from intermediate board-member districts 4 and 5 shall be elected for terms of four years and until their respective successors are elected and qualified. Thereafter the term of office for all members shall be for four years. [1969 ex.s. c 223 § 28A.98.020.]

28A.98.030 Continuation of existing law. The provisions of this title, Title 28A RCW, insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1969 code revision of Title 28 RCW shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this 1969 act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment: *Provided*, That this 1969 act shall not operate to terminate, extend or otherwise affect any appropriation for the biennium commencing July 1, 1967, and ending June 30, 1969. [1969 ex.s. c 223 § 28A.98.030.]

28A.98.040 Provisions to be construed in pari materia. The provisions of this title, Title 28A RCW, shall be construed in pari materia even though as a matter of prior legislative history they were not originally enacted in the same statute. The provisions of this title shall also be construed in pari materia with the provisions of Title 28B RCW, and with other laws relating to education. This section shall not operate retroactively. [1969 ex.s. c 223 § 28A.98.040.]

28A.98.050 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title, Title 28A RCW, do not constitute any part of the law. [1969 ex.s. c 223 § 28A.98.050.]

28A.98.060 Invalidity of part of title not to affect remainder. If any provision of this title, Title 28A RCW, 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. [1969 ex.s. c 223 § 28A.98.060.]

28A.98.070 "This code" defined. As used in this title, Title 28A RCW, "this code" means Titles 28A and 28B RCW. [1969 ex.s. c 223 § 28A.98.070.]

28A.98.080 Effective date—1969 ex.s. c 223. Title 28A RCW shall be effective July 1, 1970. [1969 ex.s. c 223 § 28A.98.080.]

TITLE 28B

HIGHER EDUCATION

Chapters

- 28B.10** Colleges and universities generally.
- 28B.12** College work–study program.
- 28B.13** 1974 bond issue for capital improvements for institutions of higher education.
- 28B.14** 1975 Bond issue for capital improvements for institutions of higher education.
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Title 28B

Title 28B: Higher Education

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COLLEGES AND UNIVERSITIES GENERALLY

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28B.10.015 "State colleges" and "institutions of higher education" defined for certain purposes. For the purposes of this chapter and chapter 28B.15 RCW, "state colleges" shall mean Central Washington State College at Ellensburg, Eastern Washington State College at Cheney, Western Washington State College at Bellingham and The Evergreen State College in Thurston county, and "institutions of higher education" shall mean the state universities, state colleges and community colleges. [1969 ex.s. c 223 § 28B.10.015.]

28B.10.020 Acquisition of property by universities and state colleges. The boards of regents of the University of Washington and Washington State University, respectively, and the boards of trustees of Central Washington State College, Eastern Washington State College, Western Washington State College and The Evergreen State College, respectively, shall have the power and authority to acquire by exchange, gift, purchase, lease, or condemnation in the manner provided by chapter 8.04 RCW for condemnation of property for public use, such lands, real estate and other property, and interests therein as they may deem necessary for the use of said institutions respectively. [1969 ex.s. c 223 § 28B.10.020. Prior: 1967 c 47 § 16; 1947 c 104 § 1; Rem. Supp. 1947 § 4623–20. Formerly RCW 28.76.020.]

28B.10.025 Purchases of works of art—Procedure. The Washington state arts commission shall, in consultation with the boards of regents of the University of Washington and Washington State University and with the boards of trustees of the state colleges and community college districts, determine the amount to be made available for the purchases of art for each project under the supervision of such boards of regents or trustees, and payment therefor shall be made in accordance with law. The selection of, commissioning of artist for, reviewing of design, execution and placement of, and the acceptance of works of art for such project shall be the responsibility of the Washington state arts commission in consultation with the board of regents or trustees having supervision of such project. [1974 ex.s. c 176 § 4.]

Acquisition of works of art for use in public buildings: RCW 43.46.090.

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28B.10.030 Display of United States flag. Every board of trustees or board of regents shall cause a United States flag being in good condition to be displayed on the campus of their respective state institution

of higher education during the hours of nine o'clock a.m. and four o'clock p.m. on school days, except during inclement weather. [1969 ex.s. c 223 § 28B.10.030. Prior: 1939 c 17 § 1; RRS § 4531–1. Formerly RCW 28.76.030.]

28B.10.040 Higher educational institutions to be nonsectarian. All institutions of higher education supported wholly or in part by state funds, and by whatsoever name so designated, shall be forever free from religious or sectarian control or influence. [1969 ex.s. c 223 § 28B.10.040. Prior: (i) 1909 c 97 p 242 § 7; RRS § 4559; prior: 1897 c 118 § 188; 1890 p 396 § 5. Formerly RCW 28.77.013; 28.76.040, part. (ii) 1909 c 97 p 243 § 1, part; RRS § 4568, part; prior: 1897 c 118 § 190, part; 1891 c 145 § 1, part. Formerly RCW 28.80.015, part; 28.76.040, part.]

Nonsectarian: State Constitution Art. 9 § 4, Art. 26.

28B.10.050 Entrance requirements. Except as the legislature shall otherwise specifically direct, the boards of regents and the boards of trustees for the state universities and state colleges shall determine entrance requirements for their respective institutions of higher education. [1969 ex.s. c 223 § 28B.10.050. Prior: 1917 c 10 § 9; RRS § 4540. Formerly RCW 28.76.050.]

28B.10.100 "Major line" defined. The term "major line," whenever used in this code, shall be held and construed to mean the development of the work or courses of study in certain subjects to their fullest extent, leading to a degree or degrees in that subject. [1969 ex.s. c 223 § 28B.10.100. Prior: 1917 c 10 § 1; RRS § 4532. Formerly RCW 28.76.010.]

28B.10.105 Courses exclusive to the University of Washington. See RCW 28B.20.060.

28B.10.106 Courses exclusive to Washington State University. See RCW 28B.30.060 and 28B.30.065.

28B.10.115 Major lines common to University of Washington and Washington State University. The courses of instruction of both the University of Washington and Washington State University shall embrace as major lines, liberal arts, pure science, pharmacy, mining, architecture, civil engineering, electrical engineering, mechanical engineering, chemical engineering, home economics, and forest management as distinguished from forest products and logging engineering which are exclusive to the University of Washington. These major lines shall be offered and taught at said institutions only. [1969 ex.s. c 223 § 28B.10.115. Prior: 1963 c 23 § 2; 1961 c 71 § 2; prior: (i) 1917 c 10 § 8; RRS § 4539. (ii) 1917 c 10 § 4; RRS § 4535. Formerly RCW 28.76.080.]

28B.10.120 Graduate work. Whenever a course is authorized to be offered and taught by this code, in any of the institutions herein mentioned, as a major line, it shall carry with it the right to offer, and teach graduate

work in such major lines. [1969 ex.s. c 223 § 28B.10.120. Prior: 1917 c 10 § 7; RRS § 4538. Formerly RCW 28.76.100.]

28B.10.140 Teachers', principals' and superintendents' training courses. The University of Washington, Washington State University, Central Washington State College, Eastern Washington State College, Western Washington State College and The Evergreen State College are each authorized to train teachers and other personnel for whom teaching certificates or special credentials prescribed by the state board of education are required, for any grade, level, department or position of the public schools of the state, except that the training for superintendents, over and above that required for teaching certificates and principals' credentials, shall be given by the University of Washington and Washington State University only. [1969 ex.s. c 223 § 28B.10.140. Prior: 1967 c 47 § 17; 1949 c 34 § 1; Rem. Supp. 1949 § 4618-3. Formerly RCW 28.76.120.]

28B.10.170 College and university fees. See chapter 28B.15 RCW.

28B.10.200 Scholarships for foreign students at state universities. The state universities shall each have the authority to award, during each academic year, not to exceed one hundred scholarships to students or graduates of universities or colleges of friendly foreign nations, and to exempt the recipients thereof from the payment of tuition, operating and service and activity fees for the scholarship period. [1973 c 62 § 1; 1969 ex.s. c 223 § 28B.10.200. Prior: 1949 c 55 § 1; 1945 c 236 § 1; Rem. Supp. 1949 § 4543-15. Formerly RCW 28.76.110.]

Savings—1973 c 62: "Nothing in this 1973 amendatory act shall be construed to affect any existing right acquired under the statutes amended or repealed herein or the term of office or election or appointment or employment of any person elected, appointed or employed under the statutes amended or repealed herein." [1973 c 62 § 26.]

Severability—1973 c 62: "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 62 § 28.] The above annotations apply to RCW 28B.10.200, 28B.10.250, 28B.10.510, 28B.10.822, 28B.10.824, 28B.16.230, 28B.20.100, 28B.20.412, 28B.20.456, 28B.30.100, 28B.40.100, 28B.50.030, 28B.50.050, 28B.50.060, 28B.50.070, 28B.50.090, 28B.50.100, 28B.50.130, 28B.50.140, 28B.50.170, 28B.50.200, 28B.50.551, 28B.50.570, 28B.50.864, and the repeal of RCW 28B.10.720, 28B.50.690, 28B.50.700, 28B.50.710, 28B.50.780 and 28B.50.790.

28B.10.210 Blind students, assistance to—"Blind student" defined. A blind student is defined for the purpose of RCW 28B.10.210 through 28B.10.220 to be a person who (a) is unable to read because of defective eyesight and (b) is qualified for admission to an institution of higher education within the state by reason of studies previously pursued. Such blind student must have been a resident of the state of Washington for one year next preceding the date upon which he received any benefits under RCW 28B.10.210 through 28B.10.220, and must make a reasonable showing that he does not have resources with which to finance his education. Inability to read because of defective eyesight may be

established for the purposes hereof by a letter from a practicing physician specializing in treatment of the eye. [1969 ex.s. c 223 § 28B.10.210. Prior: 1949 c 232 § 1; 1935 c 154 § 1; Rem. Supp. 1949 § 4542-1. Formerly RCW 28.76.129; 28.76.010, part.]

28B.10.215 Blind students, assistance to—Allocation of funds. There is allocated to each and every blind student attending any institution of higher education within the state a sum not to exceed two hundred dollars per quarter, or so much thereof as may be necessary in the opinion of the council on higher education in the state of Washington, to provide said blind student with readers, books, recordings, recorders, or other means of reproducing and imparting ideas, while attending said institution of higher education: *Provided*, That no blind student shall be charged any tuition or laboratory fee while attending any such state institution and said institution shall notify the council that it will waive tuition and laboratory fees for said blind student. The said allocation shall be made out of any moneys in the general fund not otherwise appropriated. [1974 ex.s. c 68 § 1; 1969 ex.s. c 223 § 28B.10.215. Prior: 1955 c 175 § 1; 1949 c 232 § 2; 1935 c 154 § 2; Rem. Supp. 1949 § 4542-2. Formerly RCW 28.76.130.]

28B.10.220 Blind students, assistance to—Administration of funds. All blind student assistance shall be distributed under the supervision of the council on higher education in the state of Washington. The moneys or any part thereof allocated in the manner referred to in RCW 28B.10.215 shall, for furnishing said books or equipment or supplying said services, be paid by said council directly to the state institution of higher education, directly to such blind student, heretofore mentioned, or to his parents, guardian, or some adult person, if the blind student is a minor, designated by said blind student to act as trustee of said funds, as shall be determined by the council.

The council shall have power to prescribe and enforce all rules and regulations necessary to carry out the provisions of this section and RCW 28B.10.215. [1974 ex.s. c 68 § 2; 1969 ex.s. c 223 § 28B.10.220. Prior: 1963 c 33 § 1; 1955 c 175 § 2; prior: (i) 1949 c 232 § 3; 1935 c 154 § 3; Rem. Supp. 1949 § 4542-3. (ii) 1935 c 154 § 4; RRS § 4542-4. Formerly RCW 28.76.140.]

28B.10.250 Benefits to children of deceased or totally incapacitated veterans—Authorized. Operating and service and activity fees other than tuition, and board and room, rent and books and supplies to the extent of the appropriation therefor shall be paid for the use and benefit of persons attending a state institution of higher education who are not under sixteen and not over twenty-two years of age, and have for twelve months had their domicile in the state of Washington, and whose parents or one of them was killed or totally incapacitated from engaging in any normal employment by reason of service in the armed forces of the United States. No tuition fee shall be charged to any such person by any state institution of higher education. [1973 c 62 § 2; 1969 ex.s. c 223 § 28B.10.250. Prior: 1947 c 224

§ 1; 1939 c 193 § 1; 1937 c 203 § 1; Rem. Supp. 1947 § 10737-4. Formerly RCW 28.76.150.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.10.255 Benefits to children of deceased or totally incapacitated veterans—Eligibility and need—Payment of charges. The amounts due to any state institution of higher education under the provisions of RCW 28B.10.250 through 28B.10.260 shall be payable to the institution after approval by the council on higher education in the state of Washington. Said council shall determine the eligibility and need of the persons who may make application for the benefits; satisfy itself of the attendance of the persons at any such institution and of the accuracy of the charge or charges submitted to said council by the authorities of any such institution, on account of the attendance thereat of any such person. No fees shall be received for any such service. [1974 ex.s. c 68 § 3; 1969 ex.s. c 223 § 28B.10.255. Prior: 1947 c 224 § 2; 1939 c 193 § 2; 1937 c 203 § 2; Rem. Supp. 1947 § 10737-5. Formerly RCW 28.76.160.]

28B.10.260 Benefits to children of deceased or totally incapacitated veterans—Limitation of annual benefits. Not more than two hundred fifty dollars shall be paid under the provisions of RCW 28B.10.250 through 28B.10.260 for any one person for any one year. Any unexpended balance remaining at the end of any fiscal biennium shall revert to the general fund of the state. [1969 ex.s. c 223 § 28B.10.260. Prior: 1947 c 224 § 3; 1939 c 193 § 3; 1937 c 203 § 3; Rem. Supp. 1947 § 10737-6. Formerly RCW 28.76.170.]

28B.10.265 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 and attend any public institution of higher education within the state without the necessity of paying any tuition, operating fees, and service and activities' fees for any and all courses offered at any time including summer term whether attending on a part time or full time basis: *Provided*, That such child shall meet such other educational qualifications as such institution of higher education shall deem reasonable and necessary under the circumstances. Affected institutions shall in their preparation of future budgets include therein costs resultant from such 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 § 2; 1972 ex.s. c 17 § 2.]

Effective date—1973 c 63: See note following RCW 28A.09.200.

Effective date—1972 ex.s. c 17: See note following RCW 28A.09.200.

28B.10.280 Student loans—Federal student aid programs. The boards of regents of the state universities

and the boards of trustees of the state colleges and community college districts may each create student loan funds, and qualify and participate in the National Defense Education Act of 1958 and such other similar federal student aid programs as are or may be enacted from time to time, and to that end may comply with all of the laws of the United States, and all of the rules, regulations and requirements promulgated pursuant thereto. [1970 ex.s. c 15 § 27; 1969 ex.s. c 222 § 2; 1969 ex.s. c 223 § 28B.10.280. Prior: 1959 c 191 § 1. Formerly RCW 28.76.420.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

Legislative declaration—Severability—1969 ex.s. c 222: See notes following RCW 28B.10.800.

28B.10.281 Student loans—Certain activities may make student ineligible for aid. Any student who organizes and/or participates in any demonstration, riot or other activity of which the effect is to interfere with or disrupt the normal educational process at such institution shall not be eligible for such aid. [1969 ex.s. c 222 § 3. Formerly RCW 28.76.421.]

Legislative declaration—Severability—1969 ex.s. c 222: See notes following RCW 28B.10.800.

28B.10.284 Uniform minor student capacity to borrow act. See chapter 26.30 RCW.

28B.10.290 Use of state bank credit cards. Any state university, state college or community college may honor credit cards issued by any bank within the state of Washington for tuition, fees, or any materials or supplies required for course study. [1969 ex.s. c 269 § 10. Formerly RCW 28.76.560.]

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.10.300 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges—Authorized. The boards of regents of the state universities and the boards of trustees of the state colleges are severally authorized to:

(1) Enter into contracts with persons, firms or corporations for the construction, installation, equipping, repairing, renovating and betterment of buildings and facilities for the following:

- (a) dormitories
- (b) hospitals
- (c) infirmaries
- (d) dining halls
- (e) student activities
- (f) services of every kind for students, including, but not limited to, housing, employment, registration, financial aid, counseling, testing and offices of the dean of students
- (g) vehicular parking
- (h) student, faculty and employee housing and boarding;

(2) Purchase or lease lands and other appurtenances necessary for the construction and installation of such buildings and facilities and to purchase or lease lands with buildings and facilities constructed or installed thereon suitable for the purposes aforesaid;

(3) Lease to any persons, firms, or corporations such portions of the campus of their respective institutions as may be necessary for the construction and installation of buildings and facilities for the purposes aforesaid and the reasonable use thereof;

(4) Borrow money to pay the cost of the acquisition of such lands and of the construction, installation, equipping, repairing, renovating, and betterment of such buildings and facilities, including interest during construction and other incidental costs, and to issue revenue bonds or other evidence of indebtedness therefor, and to refinance the same before or at maturity and to provide for the amortization of such indebtedness from services and activities fees or from the rentals, fees, charges, and other income derived through the ownership, operation and use of such lands, buildings, and facilities and any other dormitory, hospital, infirmary, dining, student activities, student services, vehicular parking, housing or boarding building or facility at the institution;

(5) Contract to pay as rental or otherwise the cost of the acquisition of such lands and of the construction and installation of such buildings and facilities on the amortization plan; the contract not to run over forty years;

(6) Expend on the amortization plan services and activities fees and/or any part of all of the fees, charges, rentals, and other income derived from any or all revenue-producing lands, buildings, and facilities of their respective institutions, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon, and to pledge such services and activities fees and/or the net income derived through the ownership, operation and use of any lands, buildings or facilities of the nature described in subsection (1) hereof for the payment of part or all of the rental, acquisition, construction, and installation, and the betterment, repair, and renovation or other contract charges, bonds or other evidence of indebtedness agreed to be paid on account of the acquisition, construction, installation or rental of, or

the betterment, repair or renovation of, lands, buildings, facilities and equipment of the nature authorized by this section. [1973 1st ex.s. c 130 § 1; 1969 ex.s. c 223 § 28B.10.300. Prior: 1967 ex.s. c 107 § 1; 1963 c 167 § 1; 1961 c 229 § 2; prior: (i) 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. (ii) 1947 c 64 § 2, part; 1933 ex.s. c 23 § 2, part; 1925 ex.s. c 91 § 2, part; Rem. Supp. 1947 § 4543-2, part. Formerly RCW 28.76.180.]

Prior bonds validated: See 1961 c 229 § 10.

28B.10.305 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges—Use of lands, buildings, and facilities. The lands, buildings, facilities, and equipment acquired, constructed or installed for those purposes shall be used in the respective institutions primarily for:

- (1) dormitories
- (2) hospitals
- (3) infirmaries
- (4) dining halls
- (5) student activities
- (6) services of every kind for students, including, but not limited to housing, employment, registration, financial aid, counseling, testing and offices of the dean of students

(7) vehicular parking

(8) student, faculty and employee housing and boarding. [1969 ex.s. c 223 § 28B.10.305. Prior: 1967 ex.s. c 107 § 2; 1963 c 167 § 2; 1961 c 229 § 3; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. Formerly RCW 28.76.190.]

28B.10.310 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges—Bonds—Sale, interest, form, payment, term, execution, negotiability, etc. Each issue or series of such bonds: Shall be sold at such price and at such rate or rates of interest; may be serial or term bonds; may mature at such time or times in not to exceed forty years from date of issue; may be sold at public or private sale; may be payable both principal and interest at such place or places; may be subject to redemption prior to any fixed maturities; may be in such denominations; may be payable to bearer or to the purchaser or purchasers thereof or may be registrable as to principal or principal and interest at the option of the holder; may be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon, which may include the creation and maintenance of a reserve fund or account to secure the payment of such principal and interest and a provision that additional bonds payable out of the same source or sources may later be issued on a parity therewith, and such other terms, conditions, covenants and protective provisions safeguarding such payment, all as determined and found necessary and desirable by said boards of regents or trustees. If found reasonably necessary and advisable, such boards of regents or trustees may select a trustee for the owners

and holders of each such issue or series of bonds and/or for the safeguarding and disbursements of the proceeds of their sale for the uses and purposes for which they were issued and, if such trustee or trustees are so selected, shall fix its or their rights, duties, powers, and obligations. The bonds of each such issue or series: Shall be executed on behalf of such universities or colleges by the president of the board of regents or the chairman of the board of trustees, and shall be attested by the secretary or the treasurer of such board, one of which signatures may be a facsimile signature; and shall have the seal of such university or college impressed, printed, or lithographed thereon, and the interest coupons attached thereto shall be executed with the facsimile signatures of said officials. The bonds of each such issue or series and each of the coupons attached thereto shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state even though they shall be payable solely from any special fund or funds. [1972 ex.s. c 25 § 1; 1970 ex.s. c 56 § 22; 1969 ex.s. c 232 § 96; 1969 ex.s. c 223 § 28B.10.310. Prior: 1961 c 229 § 7. Formerly RCW 28.76.192.]

Purpose—**Effective date**—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.10.315 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges—Funding, refunding bonds. Such boards of regents or trustees may from time to time provide for the issuance of funding or refunding revenue bonds to fund or refund at or prior to maturity any or all bonds of other indebtedness, including any premiums or penalties required to be paid to effect such funding or refunding, heretofore or hereafter issued or incurred to pay all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300.

Such funding or refunding bonds and each of the coupons attached thereto shall be negotiable instruments within the provisions and intent of the negotiable instruments law of this state.

Such funding or refunding bonds may be exchanged for or applied to the payment of the bonds or other indebtedness being funded or refunded or may be sold in such manner and at such price, and at such rate or rates of interest as the boards of regents or trustees deem advisable, either at public or private sale.

The provisions of this chapter relating to the maturities, terms, conditions, covenants, interest rate, issuance, and sale of revenue bonds shall be applicable to such funding or refunding bonds except as may be otherwise specifically provided in this section. [1970 ex.s. c 56 § 23; 1969 ex.s. c 232 § 97; 1969 ex.s. c 223 § 28B.10.315. Prior: 1961 c 229 § 8. Formerly RCW 28.76.194.]

Purpose—**Effective date**—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.10.320 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges—Authority to be liberally construed—Future acquisitions and installations may be pledged for payment. The authority granted in RCW 28B.10.300 through 28B.10.330 and 28B.15.220 shall be liberally construed and shall apply to all lands, buildings, and facilities of the nature described in RCW 28B.10.300 heretofore or hereafter acquired, constructed, or installed and to any rentals, contract obligations, bonds or other indebtedness heretofore or hereafter issued or incurred to pay part or all of the cost thereof, and shall include authority to pledge for the amortization plan the net income from any and all existing and future lands, buildings and facilities of the nature described in RCW 28B.10.300 whether or not the same were originally financed hereunder or under predecessor statutes. [1969 ex.s. c 223 § 28B.10.320. Prior: 1961 c 229 § 9. Formerly RCW 28.76.196.]

28B.10.325 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges—Rate of interest on obligations. The rate or rates of interest on the principal of any obligation made or incurred under the authority granted in RCW 28B.10.300 shall be as authorized by the board of regents or trustees. [1970 ex.s. c 56 § 24; 1969 ex.s. c 232 § 98; 1969 ex.s. c 223 § 28B.10.325. Prior: 1961 c 229 § 4; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4353-1, part. Formerly RCW 28.76.200.]

Purpose—**Effective date**—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.10.330 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges—Nonliability of state. The state shall incur no liability by reason of the exercise of the authority granted in RCW 28B.10.300. [1969 ex.s. c 223 § 28B.10.330. Prior: 1961 c 229 § 5; prior: 1950 ex.s. c 17 § 1, part; 1947 c 64 § 1, part; 1933 ex.s. c 23 § 1, part; 1925 ex.s. c 91 § 1, part; Rem. Supp. 1947 § 4543-1, part. Formerly RCW 28.76.210.]

28B.10.335 Validation of prior bond issues. All terms, conditions, and covenants, including the pledges of student activity fees, student use fees and student building use fees, special student fees or any similar fees charged to all full time students, or to all students, as the case may be, registering at the state's colleges and universities, contained in all bonds heretofore issued to pay all or part of the cost of acquiring, constructing or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300 are hereby declared to be lawful and binding in all respects. [1973 1st ex.s. c 130 § 3.]

28B.10.350 Construction work, remodeling or demolition, bids when—Waiver—Prevailing rate of

wage—**State colleges and universities.** When the cost to any state college or state university of any building, construction, renovation, remodeling or demolition other than ordinary maintenance or equipment repairs will equal or exceed the sum of ten thousand dollars, complete plans and specifications for such work shall be prepared and such work shall be put out for public bids in accordance with the provisions of chapter 39.19 [43.19] RCW: *Provided*, That when the estimated cost of such building, construction, renovation, remodeling or demolition equals or exceeds the sum of ten thousand dollars, such project shall be deemed a public works and "the prevailing rate of wage", under chapter 39.12 RCW shall be applicable thereto.

In the event of any emergency when the public interest or property of the state college or state university would suffer material injury or damage by delay, the president of such college or university may declare the existence of such an emergency and reciting the facts constituting the same may waive the requirements of this section with reference to any contract in order to correct the condition causing the emergency: *Provided*, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the state college or institution of higher education in the absence of prompt remedial action or a condition which immediately impairs the institution's ability to perform its educational obligations. [1971 ex.s. c 258 § 1.]

Severability—**1971 ex.s. c 258:** "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 258 § 3.] This applies to RCW 28B.10.350 and 53.08.130.

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.10.405 Annuities and retirement income plans—**Contributions by faculty and employees.** Members of the faculties and such other employees as are designated by the boards of regents of the state universities, the boards of trustees of the state colleges, or the state board for community college education shall be required to contribute not less than five percent of their salaries during each year of full time service after the first two years of such service toward the purchase of such annuity or retirement income plan; such contributions may be in addition to federal social security tax contributions, if any. [1973 1st ex.s. c 149 § 2; 1971 ex.s. c 261 § 2; 1969 ex.s. c 223 § 28B.10.405. Prior:

1955 c 123 § 2; 1947 c 223 § 2; Rem. Supp. 1947 § 4543-12. Formerly RCW 28.76.250.]

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability—1971 ex.s. c 261: See note following RCW 28B.10.400.

28B.10.410 Annuities and retirement income plans—Limitation on institution's contribution. The boards of regents of the state universities, the boards of trustees of the state colleges, or the state board for community college education shall pay not more than one-half of the annual premium of any annuity or retirement income plan established under the provisions of RCW 28B.10.400 as amended in section 1, chapter 149, Laws of 1973 1st ex. sess. Such contribution shall not exceed ten percent of the salary of the faculty member or other employee on whose behalf the contribution is made. This contribution may be in addition to federal social security tax contributions made by the boards, if any. [1973 1st ex.s. c 149 § 3; 1971 ex.s. c 261 § 3; 1969 ex.s. c 223 § 28B.10.410. Prior: 1955 c 123 § 3; 1947 c 223 § 3; Rem. Supp. 1947 § 4543-13. Formerly RCW 28.76.260.]

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability—1971 ex.s. c 261: See note following RCW 28B.10.400.

28B.10.415 Annuities and retirement income plans—Limitation on annuity or retirement income plan payment. The boards of regents of the state universities, the boards of trustees of state colleges, or the state board for community college education shall not pay any amount to be added to the annuity or retirement income plan of any retired person who has served for less than ten years in one or more of the state institutions of higher education. In the case of persons who have served more than ten years but less than twenty-five years no amount shall be paid in excess of four percent of the amount authorized in subdivision (3) of RCW 28B.10.400 as amended in section 1, chapter 149, Laws of 1973 1st ex. sess., multiplied by the number of years of full time service rendered by such person. [1973 1st ex.s. c 149 § 4; 1971 ex.s. c 261 § 4; 1969 ex.s. c 223 § 28B.10.415. Prior: 1955 c 123 § 4; 1947 c 223 § 4; Rem. Supp. 1947 § 4543-14. Formerly RCW 28.76.270.]

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Severability—1971 ex.s. c 261: See note following RCW 28B.10.400.

28B.10.417 Annuities and retirement income plans—Rights and duties of faculty or employees with Washington state teachers' retirement system credit. (1) A faculty member or other employee designated by the board of trustees of his respective state college as being subject to an annuity or retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system, shall retain credit for such service in the Washington state teachers' retirement system and except as provided in subsection (2) of this section, shall leave his accumulated contributions in the teachers' retirement fund.

Upon his attaining eligibility for retirement under the Washington state teachers' retirement system, such faculty member or other employee shall receive from the Washington state teachers' retirement system a retirement allowance consisting of an annuity which shall be the actuarial equivalent of his accumulated contributions at his age when becoming eligible for such retirement and a pension for each year of creditable service established and retained at the time of said designation as provided in RCW 41.32.497 as now or hereafter amended. Anyone who on July 1, 1967, was receiving pension payments from the teachers' retirement system based on thirty-five years of creditable service shall thereafter receive a pension based on the total years of creditable service established with the retirement system: *Provided, however,* That any such faculty member or other employee who, upon attainment of eligibility for retirement under the Washington state teachers' retirement system, is still engaged in public educational employment, shall not be eligible to receive benefits under the Washington state teachers' retirement system until he ceases such public educational employment. Any retired faculty member or other employee who enters service in any public educational institution shall cease to receive pension payments while engaged in such service: *Provided further,* That such service may be rendered up to seventy-five days in a school year without reduction of pension.

(2) A faculty member or other employee designated by the board of trustees of his respective state college as being subject to the annuity and retirement income plan and who, at the time of such designation, is a member of the Washington state teachers' retirement system may, at his election and at any time, on and after midnight June 10, 1959, terminate his membership in the Washington state teachers' retirement system and withdraw his accumulated contributions and interest in the teachers' retirement fund upon written application to the board of trustees of the Washington state teachers' retirement system. Faculty members or other employees who withdraw their accumulated contributions, on and after the date of withdrawal of contributions, shall no longer be members of the Washington state teachers' retirement system and shall forfeit all rights of membership, including pension benefits, theretofore acquired under the Washington state teachers' retirement system. [1971 ex.s. c 261 § 5.]

Severability—1971 ex.s. c 261: See note following RCW 28B.10.400.

28B.10.420 Annuities and retirement income plans—Retirement at age seventy. Faculty members or other employees designated by the boards of regents of the state universities, the boards of trustees of the state colleges, or the state board for community college education pursuant to RCW 28B.10.400 through 28B.10.420 shall be retired from their employment with their institutions of higher education not later than the end of the academic year next following their seventieth birthday. [1973 1st ex.s. c 149 § 5; 1969 ex.s. c 223 § 28B.10.420. Prior: 1947 c 223 § 5; Rem. Supp. 1947 § 4543-14a. Formerly RCW 28.76.280.]

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

Retirement, earliest age allowable: RCW 28B.10.400.

28B.10.423 Annuities and retirement income plans—Limit on retirement income—Adjustment of rates. It is the intent of RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and 83.20.030 that the retirement income resulting from the contributions described herein from the state of Washington and the employee shall be projected actuarially so that it shall not exceed sixty percent of the average of the highest two consecutive years salary. Periodic review of the retirement systems established pursuant to RCW 28B.10.400, 28B.10.405, 28B.10.410, 28B.10.415, 28B.10.420, 28B.10.423 and 83.20.030 will be undertaken at such time and in such manner as determined by the committees on ways and means of the senate and of the house of representatives and the public pension commission, and joint contribution rates will be adjusted if necessary to accomplish this intent. [1973 1st ex.s. c 149 § 8.]

Severability—Appropriation—Effective date—1973 1st ex.s. c 149: See notes following RCW 28B.10.400.

28B.10.425 Additional pension for certain retired university faculty members or employees. Retired faculty members or employees of the University of Washington or Washington State University, who have reached age sixty-five or are disabled from further service as of June 10, 1971, who at the time of retirement or disability were not eligible for federal old age, survivors, or disability benefit payments (social security), and who are receiving retirement income on July 1, 1970 pursuant to RCW 28B.10.400, shall, upon application approved by the board of regents of the institution retired from, receive an additional pension of three dollars per month for each year of full time service at such institution, including military leave. For periods of service that are less than full time service, the monthly rate of the pension shall be prorated accordingly to include such periods of service. [1971 ex.s. c 76 § 1.]

28B.10.480 Tax deferred annuities for employees. The regents or trustees of any of the state's institutions of higher education 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. [1969 ex.s. c 223 § 28B.10.480. Prior: 1965 c 54 § 1, part. Formerly RCW 28.02.120, part.]

28B.10.500 Removal of regents or trustees from universities and state colleges. No regent of the state universities, or trustee of the state colleges shall be removed during the term of office for which appointed, excepting only for misconduct or malfeasance in office, and then only in the manner hereinafter provided. Before any regent or trustee may be removed for such misconduct

or malfeasance, a petition for removal, stating the nature of the misconduct or malfeasance of such regent or trustee with reasonable particularity, shall be signed and verified by the governor and served upon such regent or trustee. Said petition, together with proof of service of same upon such regent or trustee, shall forthwith be filed with the clerk of the supreme court. The chief justice of the supreme court shall thereupon designate a tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time of hearing, which shall be public, and the procedure for the hearing, and the decision of such tribunal shall be final and not subject to review by the supreme court. Removal of any member of the board by the tribunal shall disqualify such member for reappointment. [1969 ex.s. c 223 § 28B.10.500. Prior: 1943 c 59 § 1; Rem. Supp. 1943 § 4603-1. Formerly RCW 28.76.290.]

28B.10.510 Attorney general as advisor. The attorney general of the state shall be the legal advisor to the presidents and the boards of regents and trustees of the institutions of higher education and he shall institute and prosecute or defend all suits in behalf of the same. [1973 c 62 § 3; 1969 ex.s. c 223 § 28B.10.510. Prior: 1909 c 97 p 242 § 8; RRS § 4560; prior: 1897 c 118 § 189; 1890 p 399 § 19. Formerly RCW 28.77.125; 28.76.300.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

Attorney general's powers in general: Chapter 43.10 RCW.

Employment of attorneys by state agencies restricted: RCW 43.10.067.

28B.10.520 Regents and trustees—Oaths. Each member of a university board of regents or college board of trustees of a state institution of higher education, before entering upon his duties, shall take and subscribe an oath to discharge faithfully and honestly his duties and to perform strictly and impartially the same to the best of his ability, such oath to be filed with the secretary of state. [1969 ex.s. c 223 § 28B.10.520. Prior: 1909 c 97 p 248 § 13; RRS § 4593; prior: 1897 c 118 § 202; 1891 c 145 § 14. Formerly RCW 28.80.140.]

28B.10.525 Regents and trustees—Travel expenses. Each member of a university board of regents or college board of trustees of a state institution of higher education, shall be entitled to receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day or major portion thereof in which he is actually engaged in business of the board. [1975-'76 2nd ex.s. c 34 § 72; 1969 ex.s. c 223 § 28B.10.525. Prior: (i) 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part. Formerly RCW 28.77.130, part. (ii) 1909 c 97 p 249 § 14; RRS § 4594; prior: 1897 c 118 § 203; 1891 c 145 § 15. Formerly RCW 28.80.150.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

28B.10.528 Delegation of powers and duties by governing boards. The governing boards of institutions of higher education shall have power, when exercised by

resolution, to delegate to the president or his designee, of their respective university or college, any of the powers and duties vested in or imposed upon such governing board by law. Delegated powers and duties may be exercised in the name of the respective governing boards. [1971 ex.s. c 57 § 21.]

Effective date—Severability—1971 ex.s. c 57: See notes following RCW 28B.19.010.

28B.10.550 Police forces for state colleges and universities—Authorized. The boards of regents of the state universities, and the boards of trustees of the state colleges, acting independently and each on behalf of its own institution:

(1) May each establish a police force for its own institution, which force shall function under such conditions and regulations as the board prescribes; and

(2) May supply appropriate badges and uniforms indicating the positions and authority of the members of such police force. [1969 ex.s. c 223 § 28B.10.550. Prior: 1965 ex.s. c 16 § 1; 1949 c 123 § 1; Rem. Supp. 1949 § 4543-16. Formerly RCW 28.76.310.]

28B.10.555 Police forces for state colleges and universities—Powers. The members of a police force established under authority of RCW 28B.10.550, when appointed and duly sworn:

(1) Shall be peace officers of the state and have such police powers as are vested in sheriffs and peace officers generally under the laws of this state; and

(2) May exercise such powers upon state lands devoted mainly to the educational or research activities of the institution to which they were appointed; and

(3) Shall have power to pursue and arrest beyond the limits of such state lands, if necessary, all or any violators of the rules or regulations herein provided for. [1969 ex.s. c 223 § 28B.10.555. Prior: 1965 ex.s. c 16 § 2; 1949 c 123 § 2; Rem. Supp. 1949 § 4543-17. Formerly RCW 28.76.320.]

28B.10.560 Police forces for state colleges and universities—Establishment of traffic regulations. The boards of regents of the state universities, and the boards of trustees of the state colleges, acting independently and each on behalf of its own institution, may each establish and promulgate rules and regulations governing pedestrian traffic and vehicular traffic and parking upon state lands devoted mainly to the educational or research activities of its own institution. [1969 ex.s. c 223 § 28B.10.560. Prior: 1965 ex.s. c 16 § 3; 1949 c 123 § 3; Rem. Supp. 1949 § 4543-18. Formerly RCW 28.76.330.]

28B.10.565 Police forces for state colleges and universities—Penalty. Any person violating a rule or regulation promulgated in conformity with the provisions of RCW 28B.10.560, shall be guilty of a misdemeanor and the courts of justice of the peace in the county in which the offense is committed shall have jurisdiction over such offense. [1969 ex.s. c 223 § 28B.10.565. Prior: 1949 c 123 § 4; Rem. Supp. 1949 § 4543-19. Formerly RCW 28.76.340.]

28B.10.567 Police forces for state colleges and universities—Benefits for duty-related death, disability or injury. The boards of regents of the state universities and the boards of trustees of the state colleges are authorized and empowered, under such rules and regulations as any such board may prescribe for the duly sworn police officers employed by any such board as members of a police force established pursuant to RCW 28B.10.550, to provide for the payment of death or disability benefits or medical expense reimbursement for death, disability, or injury of any such duly sworn police officer who, in the line of duty, loses his life or becomes disabled or is injured, and for the payment of such benefits to be made to any such duly sworn police officer or his surviving spouse or the legal guardian of his child or children, as defined in RCW 41.26.030(7), or his estate: *Provided*, That the duty-related benefits authorized by this section shall in no event be greater than the benefits authorized on June 25, 1976 for duty-related death, disability, or injury of a law enforcement officer under chapter 41.26 RCW: *Provided further*, That the duty-related benefits authorized by this section shall be reduced to the extent of any amounts received or eligible to be received on account of the duty-related death, disability, or injury to any such duly sworn police officer, his surviving spouse, the legal guardian of his child or children, or his estate, under workmen's compensation, social security including the changes incorporated under Public Law 89-97 as now or hereafter amended, or disability income insurance and health care plans under chapter 41.05 RCW. [1975-'76 2nd ex.s. c 81 § 1.]

28B.10.570 Interfering by force or violence with any administrator, faculty member or student unlawful. It shall be unlawful for any person, singly or in concert with others, to interfere by force or violence with any administrator, faculty member or student of any university, college or community college who is in the peaceful discharge or conduct of his duties or studies. [1971 c 45 § 1; 1970 ex.s. c 98 § 1. Formerly RCW 28.76.600.]

Severability—1971 c 45: "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 provisions to other persons or circumstances is not affected." [1971 c 45 § 8.] This applies to RCW 28B.10.570, 28B.10.571 and 28A.87.230 through 28A.87.233.

Severability—1970 ex.s. c 98: "If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph, section, or part of this act, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this act, but the effect thereof shall be confined to the clause, sentence, paragraph, section or part of this act so adjudged to be invalid or unconstitutional." [1970 ex.s. c 98 § 5.] This applies to RCW 28B.10.570 through 28B.10.573.

Disturbing school, school activities or meetings—Penalty—Disposition of fines: RCW 28A.87.060.

28B.10.571 Intimidating any administrator, faculty member or student by threat of force or violence unlawful. It shall be unlawful for any person, singly or in concert with others, to intimidate by threat of force or violence any administrator, faculty member or student of any university, college or community college who is in

the peaceful discharge or conduct of his duties or studies. [1971 c 45 § 2; 1970 ex.s. c 98 § 2. Formerly RCW 28.76.601.]

Severability—1971 c 45: See note following RCW 28B.10.570.

28B.10.572 Certain unlawful acts—Disciplinary authority exception. The crimes defined in RCW 28B.10.570 through 28B.10.573 shall not apply to school administrators or teachers who are engaged in the reasonable exercise of their disciplinary authority. [1970 ex.s. c 98 § 3. Formerly RCW 28.76.602.]

Severability—1970 ex.s. c 98: See note following RCW 28B.10.570.

Teacher's abuse of pupil—Penalty—Disposition of fines: RCW 28A.87.140.

28B.10.573 Certain unlawful acts—Penalty. Any person guilty of violating RCW 28B.10.570 through 28B.10.573 shall be deemed guilty of a gross misdemeanor and, upon conviction thereon, shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months or both such fine and imprisonment. [1970 ex.s. c 98 § 4. Formerly RCW 28.76.603.]

Severability—1970 ex.s. c 98: See note following RCW 28B.10.570.

28B.10.600 District schools may be used for teacher training by universities and state colleges—Authority. The boards of regents of the state universities are each authorized to enter into agreements with the board of directors of any school district in this state whereby one or more of the public schools operated by such district may be used by the university for the purpose of training students at said university as teachers, supervisors, principals, or superintendents. The boards of trustees of the state colleges are authorized to enter into similar agreements for the purpose of training students at the state colleges as teachers, supervisors or principals. [1969 ex.s. c 223 § 28B.10.600. Prior: 1949 c 182 § 1; Rem. Supp. 1949 § 4543-40. Formerly RCW 28.76.350.]

State colleges' model schools and training departments: RCW 28B.40.300-28B.40.315.

28B.10.605 District schools may be used for teacher training by universities and state colleges—Agreement for financing, organization, etc. The financing and the method of organization and administration of such a training program operated by agreement between a university board of regents or state college board of trustees and the board of directors of any school district shall be determined by agreement between them. [1969 ex.s. c 223 § 28B.10.605. Prior: 1949 c 182 § 2; Rem. Supp. 1949 § 4543-41. Formerly RCW 28.76.360.]

28B.10.620 Agreements for research work by private nonprofit corporations at universities—Authority. The boards of regents of the state universities are hereby empowered to enter into agreements with corporations organized under chapters 24.08, 24.16 or 24.20 RCW, whereby such corporations may be permitted to conduct on university property devoted mainly to medical, educational or research activities, under such conditions as

the boards of regents shall prescribe, any educational, hospital, research or related activity which the boards of regents shall find will further the objects of the university. [1969 ex.s. c 223 § 28B.10.620. Prior: 1949 c 152 § 1; Rem. Supp. 1949 § 4543-30. Formerly RCW 28.76.370.]

28B.10.625 Agreements for research work by private nonprofit corporations at universities—Funds may be expended in cooperative effort. The boards of regents of the state universities may expend funds available to said institutions in any cooperative effort with such corporations which will further the objects of the particular university and may permit any such corporation or corporations to use any property of the university in carrying on said functions. [1969 ex.s. c 223 § 28B.10.625. Prior: 1949 c 152 § 2; Rem. Supp. 1949 § 4543-31. Formerly RCW 28.76.380.]

28B.10.640 Student associations to contract for certain purchases, concessions, printing, etc.—Procedure. The associated students of the University of Washington, the associated students of Washington State University, the student associations of the state community colleges and the student associations of the state colleges shall contract for all purchases for printing of athletic programs, athletic tickets, athletic press brochures, yearbooks, magazines, newspapers and letting of concessions, exceeding one thousand dollars, notice of call for bid on the same to be published in at least two newspapers of general circulation in the county wherein the institution is located two weeks prior to the award being made. The contract shall be awarded to the lowest responsible bidder, if the price bid is fair and reasonable and not greater than the market value and price, and if the bid satisfactorily covers the quality, design, performance, convenience and reliability of service of the manufacturer and/or dealer. The aforesaid student associations may require such security as they deem proper to accompany the bids submitted, and they shall also fix the amount of the bond or other security that shall be furnished by the person to whom the contract is awarded. Such student associations may reject any or all bids submitted, if for any reason it is deemed for the best interest of their organizations to do so and readvertise in accordance with the provisions of this section. The student associations may reject the bid of any person who has had a prior contract, and who did not, in its opinion, faithfully comply with its terms: *Provided*, That nothing in this section shall apply to printing done or presses owned and operated by the associated students of the University of Washington, the associated students of Washington State University or the student associations of the state colleges or community colleges, or to printing done on presses owned or operated by their respective institutions. [1969 ex.s. c 223 § 28B.10.640. Prior: 1967 ex.s. c 8 § 50; 1957 c 212 § 1. Formerly RCW 28.76.390.]

28B.10.650 Sabbaticals and other leaves for faculty members of universities and state colleges. The boards of

regents of the state universities and the boards of trustees of the state colleges may grant sabbatical and other leaves to faculty members in accordance with regulations adopted by the respective governing boards and with such remunerations as the respective boards may prescribe. [1969 ex.s. c 223 § 28B.10.650. Prior: 1959 c 155 § 1. Formerly RCW 28.76.400.]

28B.10.660 Liability, life, health, health care, accident, disability, and salary insurance or protection authorized—Premiums (as amended by 1973 1st ex.s. c 9 § 2). The regents or trustees of any of the state's institutions of higher education may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of, the enumerated types of insurance, or any other type of insurance or protection, for the regents or trustees, students and employees of the institution, and their dependents. Whenever funds shall be available for these purposes, the regents or trustees of any of the state's institutions of higher education may contribute all or a part of the cost of such protection or insurance for the employees of their respective institutions and their dependents. The premiums due on such liability insurance shall be borne by the university or college. The premiums due on such protection or insurance shall be borne by the assenting regent, trustee or student. All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57 and 18.71 RCW. [1973 1st ex.s. c 9 § 2; 1971 ex.s. c 269 § 3; 1969 ex.s. c 237 § 4; 1969 ex.s. c 223 § 28B.10.660. Prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28.76.410, part.]

Severability—1971 ex.s. c 269: See note following RCW 28A.58.420.

28B.10.660 Liability, life, health, health care, accident, disability, and salary insurance or protection authorized—Premiums (as amended by 1973 1st ex.s. c 147 § 4). The regents or trustees of any of the state's institutions of higher education may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of, the enumerated types of insurance, or any other type of insurance or protection, for the regents or trustees and students of the institution. The premiums due on such protection or insurance shall be borne by the assenting regents, trustees, or students. The regents or trustees of any of the state institutions of higher education may make liability insurance available for employees of the institutions. The premiums due on such liability insurance shall be borne by the university or college. [1973 1st ex.s. c 147 § 4; 1971 ex.s. c 269 § 3; 1969 ex.s. c 237 § 4; 1969 ex.s. c 223 § 28B.10.660. Prior: 1967 c 135 § 2, part; 1959 c 187 § 1, part. Formerly RCW 28.76.410, part.]

Reviser's note: RCW 28B.10.660 was amended twice during the 1973 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

Effective date—Effect of veto—Appropriation—Savings—Severability—1973 1st ex.s. c 147: See notes following RCW 41.05.010.

Severability—1971 ex.s. c 269: See note following RCW 28A.58.420.

28B.10.665 Liability insurance for officers and employees authorized. See RCW 36.16.138.

28B.10.700 Physical education in curriculum. The state board for community college education, the boards of trustees of the state colleges, and the boards of regents of the state universities, with appreciation of the legislature's desire to emphasize physical education courses in their respective institutions, shall provide for the same, being cognizant of legislative guide lines put forth in RCW 28A.05.040 relating to physical education

courses in high schools. [1969 ex.s. c 223 § 28B.10.700. Prior: 1963 c 235 § 1, part; prior: (i) 1923 c 78 § 1, part; 1919 c 89 § 2, part; RRS § 4683, part. (ii) 1919 c 89 § 5, part; RRS § 4686, part. Formerly RCW 28.05.040, part.]

28B.10.703 Programs for intercollegiate athletic competition—Authorized. The governing boards of each of the state universities, state colleges, and community colleges in addition to their other duties prescribed by law shall have the power and authority to establish programs for intercollegiate athletic competition. Such competition may include participation as a member of an athletic conference or conferences, in accordance with conference rules. [1971 ex.s. c 28 § 2.]

28B.10.704 Programs for intercollegiate athletic competition—Funds for assistance of student participants. Funds used for purposes of providing scholarships or other forms of financial assistance to students in return for participation in intercollegiate athletics in accordance with RCW 28B.10.703 shall include but not be limited to moneys received as contributed or donated funds, or revenues derived from athletic events, including gate receipts and revenues obtained from the licensing of radio and television broadcasts. [1973 1st ex.s. c 46 § 9; 1971 ex.s. c 28 § 3.]

Severability—1973 1st ex.s. c 46: "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 46 § 11.] This applies to RCW 28B.10.704, 28B.15.041, 28B.15.600, 28B.16.180, 28B.19.040, 28B.19.110, 28B.19.120, 28B.50.040, 28B.50.060, and the repeal of RCW 28B.50.560, 28B.50.620, 28B.50.630, 28B.50.650, 28B.50.670 and 28B.50.680.

28B.10.710 Washington state or Pacific Northwest history in curriculum. There shall be a one quarter or semester course in either Washington state history and government, or Pacific Northwest history and government in the curriculum of all teachers' colleges and teachers' courses in all institutions of higher education. No person shall be graduated from any of said schools without completing said course of study, unless otherwise determined by the state board of education. [1969 ex.s. c 223 § 28B.10.710. Prior: 1967 c 64 § 1, part; 1963 c 31 § 1, part; 1961 c 47 § 2, part; 1941 c 203 § 1, part; Rem. Supp. 1941 § 4898-3, part. Formerly RCW 28.05.050, part.]

28B.10.800 State student financial aid program—Purpose. The sole purpose of RCW 28B.10.800 through 28B.10.824 is to establish a state of Washington student financial aid program, thus assisting financially needy or disadvantaged students domiciled in Washington to obtain the opportunity of attending an accredited institution of higher education, as defined in RCW 28B.10.802(1). [1969 ex.s. c 222 § 7. Formerly RCW 28.76.430.]

Reviser's note: "this act" is translated for RCW purposes only as applicable to Part IV of chapter 222, Laws of 1969 ex.s., which part provided for a state financial aid program.

Legislative declaration—1969 ex.s. c 222: "The legislature hereby declares that it regards the higher education of its qualified domiciliaries to be a public purpose of great importance to the welfare and security of this state and nation; and further declares that the establishment of a student financial aid program, assisting financially needy or disadvantaged students in this state to be a desirable and economical method of furthering this purpose. The legislature has concluded that the benefit to the state in assuring the development of the talents of its qualified domiciliaries will bring tangible benefits to the state in the future.

The legislature further declares that there is an urgent need at present for the establishment of a state of Washington student financial aid program, and that the most efficient and economical way to meet this need is through the plan prescribed in this act." [1969 ex.s. c 222 § 6.] This act includes RCW 28B.10.280, 28B.10.281, and 28B.10.800 through 28B.10.824.

Appropriation—1969 ex.s. c 222: "There is hereby appropriated from the state general fund to the Washington state student financial aid commission for the biennium ending June 30, 1971, the sum of six hundred thousand dollars or so much thereof as may be necessary to carry out the provisions of Part IV of this act." [1969 ex.s. c 222 § 23.]

Part IV of this act includes RCW 28B.10.800 through 28B.10.824. The Washington state student financial aid commission was provided for in sections of chapter 222, Laws of 1969 ex. sess. but vetoed by the Governor on the basis that the Commission on Higher Education made up of citizen members of the Council on Higher Education created in Engrossed Senate Bill No. 243 was given administration of student financial aid programs under Engrossed House Bill No. 132 which had passed the House and was pending in the Senate. See veto message.

Severability—1969 ex.s. c 222: "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 222 § 24.] This applies to RCW 28B.10.280, 28B.10.281 and 28B.10.800 through 28B.10.824.

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.10.804 State student financial aid program—Commission, guidelines in performance of duties. The commission shall be cognizant of the following guidelines in the performance of its duties:

(1) The commission shall be research oriented, not only at its inception but continually through its existence.

(2) The commission shall coordinate all existing programs of financial aid except those specifically dedicated to a particular institution by the donor.

(3) The commission shall take the initiative and responsibility for coordinating all federal student financial aid programs to insure that the state recognizes the maximum potential effect of these programs, and shall design the state program which complements existing federal, state and institutional programs.

(4) Counseling is a paramount function of student financial aid, and in most cases could only be properly implemented at the institutional levels; therefore, state student financial aid programs shall be concerned with the attainment of those goals which, in the judgment of the commission, are the reasons for the existence of a student financial aid program, and not solely with administration of the program on an individual basis.

(5) In the development of any new program, the commission shall seek advice from and consultation with the institutions of higher learning, state agencies, industry, labor, and such other interested groups as may be able to contribute to the effectiveness of program development and implementation.

(6) The "package" approach of combining loans, grants and employment for student financial aid shall be the conceptional element of the state's involvement. [1969 ex.s. c 222 § 10. Formerly RCW 28.76.450.]

28B.10.806 State student financial aid program—Commission, powers and duties generally. The commission shall have the following powers and duties:

(1) Conduct a full analysis of student financial aid as a means of:

(a) Fulfilling educational aspirations of students of the state of Washington, and

(b) Improving the general, social, cultural, and economic character of the state.

Such an analysis will be a continuous one and will yield current information relevant to needed improvements in the state program of student financial aid. The commission will disseminate the information yielded by their analyses to all appropriate individuals and agents.

(c) This study should include information on the following:

(i) all programs and sources of available student financial aid,

(ii) distribution of Washington citizens by socio-economic class,

(iii) data from federal and state studies useful in identifying:

(A) demands of students for specific educational goals in colleges, and

(B) the discrepancy between high school students' preferences and the colleges they actually selected.

(2) Design a state program of student financial aid based on the data of the study referred to in this section. The state program will supplement available federal and local aid programs. The state program of student financial aid will not exceed the difference between the budgetary costs of attending an institution of higher learning and the student's total resources, including family support, personal savings, employment, and federal and local aid programs.

(3) Determine and establish criteria for financial need of the individual applicant based upon the consideration of that particular applicant. In making this determination the commission shall consider the following:

(a) Assets and income of the student.

(b) Assets and income of the parents, or the individuals legally responsible for the care and maintenance of the student.

(c) The cost of attending the institution the student is attending or planning to attend.

(d) Any other criteria deemed relevant to the commission.

(4) Set the amount of financial aid to be awarded to any individual needy or disadvantaged student in any school year.

(5) Award financial aid to full time needy or disadvantaged students for a school year based upon only that amount necessary to fill the financial gap between the budgetary cost of attending an institution of higher education and the family and student contribution.

(6) Review the need and eligibility of all applications on an annual basis and adjust financial aid to reflect changes in the financial need of the recipients and the cost of attending the institution of higher education. [1969 ex.s. c 222 § 11. Formerly RCW 28.76.460.]

28B.10.808 State student financial aid program—
Commission, procedure for awarding grants. In awarding grants, the commission shall proceed substantially as follows: *Provided*, That nothing contained herein shall be construed to prevent the commission, in the exercise of its sound discretion, from following another procedure when the best interest of the program so dictates:

(1) The commission shall annually select the financial aid award winners from among Washington residents applying for student financial aid who have been ranked according to financial need as determined by the amount of the family contribution and other considerations brought to the commission's attention.

(2) The financial need of the highest ranked students shall be met by grants depending upon the evaluation of financial need until the total allocation has been disbursed. Funds from grants which are declined, forfeited or otherwise unused shall be reawarded until dispersed.

(3) A grant may be renewed until the course of study is completed, but not for more than an additional three academic years beyond the first year of the award. These shall not be required to be consecutive years. Qualifications for renewal will include maintaining satisfactory

academic standing toward completion of the course of study, and continued eligibility as determined by the commission. Should the recipient terminate his enrollment for any reason during the academic year, the unused portion of the grant shall be returned to the state educational grant fund by the institution according to the institution's own policy for issuing refunds.

(4) In computing financial need the commission shall determine a maximum student expense budget allowance, not to exceed an amount equal to the total maximum student expense budget at the public institutions plus the current average state appropriation per student for operating expense in the public institutions. [1969 ex.s. c 222 § 12. Formerly RCW 28.76.470.]

28B.10.810 State student financial aid program—
Qualifications for student to be eligible for aid. For a student to be eligible for financial aid he must:

(1) Be a "needy student" or "disadvantaged student" as determined by the commission in accordance with RCW 28B.10.802(3) and (4).

(2) Have been domiciled within the state of Washington for at least one year.

(3) Be enrolled or accepted for enrollment as a full time student or as a student under an established program designed to qualify him for enrollment as a full time student at an institution of higher education in Washington.

(4) Have complied with all the rules and regulations adopted by the commission for the administration of RCW 28B.10.800 through 28B.10.824. [1969 ex.s. c 222 § 13. Formerly RCW 28.76.475.]

28B.10.812 State student financial aid program—
Aid granted without regard to applicant's race, creed, color, religion, sex, or ancestry. All student financial aid shall be granted by the commission without regard to the applicant's race, creed, color, religion, sex, or ancestry. [1969 ex.s. c 222 § 14. Formerly RCW 28.76.480.]

28B.10.814 State student financial aid program—
Theology student denied aid. No aid shall be awarded to any student who is pursuing a degree in theology. [1969 ex.s. c 222 § 15. Formerly RCW 28.76.490.]

28B.10.816 State student financial aid program—
Application of award. A state financial aid recipient under RCW 28B.10.800 through 28B.10.824 shall apply the award toward the cost of tuition, room, board, books and fees at the institution of higher education attended. [1969 ex.s. c 222 § 16. Formerly RCW 28.76.500.]

28B.10.818 State student financial aid program—
Commission to determine how funds disbursed. Funds appropriated for student financial assistance to be granted pursuant to RCW 28B.10.800 through 28B.10.824 shall be disbursed as determined by the commission. [1969 ex.s. c 222 § 17. Formerly RCW 28.76.510.]

28B.10.820 State student financial aid program—
Grants, gifts, bequests and devises of property. The commission shall be authorized to accept grants, gifts,

bequests, and devises of real and personal property from any source for the purpose of granting financial aid in addition to that funded by the state. [1969 ex.s. c 222 § 18. Formerly RCW 28.76.520.]

28B.10.822 State student financial aid program—Commission rules and regulations. The commission shall adopt rules and regulations as may be necessary or appropriate for effecting the provisions of RCW 28B.10.800 through 28B.10.824, and not in conflict with RCW 28B.10.800 through 28B.10.824, in accordance with the provisions of chapter 28B.19 RCW, the state higher education administrative procedure act. [1973 c 62 § 4; 1969 ex.s. c 222 § 19. Formerly RCW 28.76.530.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.10.824 State student financial aid program—Commission, executive director, employees—Appointment—Salaries. Subject to the provisions of chapter 28B.16 RCW, the state higher education personnel law, the commission shall appoint an executive director as chief administrator of the commission, and such employees as it deems advisable, and shall fix their compensation and prescribe their duties. [1973 c 62 § 5; 1969 ex.s. c 222 § 20. Formerly RCW 28.76.540.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.10.825 Institutional student loan fund for needy students. The board of trustees or regents of each of the state's colleges or universities may allocate from services and activities fees an amount not to exceed one dollar per quarter or one dollar and fifty cents per semester to an institutional student loan fund for needy students, to be administered by such rules or regulations as the board of trustees or regents may adopt: *Provided*, That loans from such funds shall not be made for terms exceeding twelve months, and the true annual rate of interest charged shall be six percent. [1971 ex.s. c 279 § 4.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Colleges and universities defined: See RCW 28B.15.005.

28B.10.830 Tuition supplement program for undergraduate resident students attending independent or private institutions—Purpose. It is the declared legislative intent and among the purposes of RCW 28B.10.830 through 28B.10.836 to recognize the contributions made to the educational level of the citizens of this state by the independent and private institutions of higher education in Washington state and to acknowledge that these general educational programs and services offered collectively by these institutions are in the public's interest. Based upon the paramount duty of the state to make ample provision for the education of all children residing within its borders, provisions of RCW 28B.10.830 through 28B.10.836 are enacted for that purpose by the legislature in the exercise of the police power of the state for the purpose of promoting the

health, safety, and general welfare of all the people of this state. [1971 ex.s. c 56 § 1.]

Severability—1971 ex.s. c 56: "If any provision, part, section, or sentence 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 56 § 5.] This applies to RCW 28B.10.830 through 28B.10.836.

28B.10.832 Tuition supplement program for undergraduate resident students attending independent or private institutions—Council to develop and administer state plan. The council on higher education, in addition to its other duties as prescribed in chapter 28B.80 RCW is hereby directed to develop and administer a state plan to provide a tuition supplement program to undergraduate resident students attending an accredited independent or private institution of higher education within the state of Washington. [1971 ex.s. c 56 § 2.]

Severability—1971 ex.s. c 56: See note following RCW 28B.10.830.

28B.10.834 Tuition supplement program for undergraduate resident students attending independent or private institutions—Minimum provisions for state plan. The state plan as authorized in RCW 28B.10.832 shall include but not be limited to the following provisions:

(1) Allocations will be made to all undergraduate students on an equal and uniform basis.

(2) Student eligibility shall be determined upon admission to an independent or private institution of higher education accredited by the Northwest Association of Secondary and Higher Schools and/or such other professional accrediting agencies as may be required by the state plan.

(3) A student to be eligible shall be certified to be a full time undergraduate student pursuing twelve or more credit hours or the equivalent thereof as determined by the college or university.

(4) If the successful applicant after admission withdraws or is dismissed from the institution, the applicant will repay to the state that portion of the grant which is equal to the percentage of refund of general tuition and fees which is granted by the institution.

(5) Applicants must be Washington resident students as the same are defined in chapter 28B.15 RCW, as now or hereafter amended.

(6) The amount of any grant shall not exceed one hundred dollars for any twelve month period. [1971 ex.s. c 56 § 3.]

Severability—1971 ex.s. c 56: See note following RCW 28B.10.830.

28B.10.836 Tuition supplement program for undergraduate resident students attending independent or private institutions—Theology students excluded. No aid shall be awarded to any student who is pursuing a degree in theology. [1971 ex.s. c 56 § 4.]

Severability—1971 ex.s. c 56: See note following RCW 28B.10.830.

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.]

Liability coverage of university personnel and students: RCW 28B.20.250 through 28B.20.255.

28B.10.844 Regents, trustees, officers, employees or agents of institutions of higher education or educational boards, insurance to protect and hold personally harmless. The board of regents and the board of trustees of each of the state's institutions of higher education and governing body of an educational board are authorized to purchase insurance to protect and hold personally harmless any regent, trustee, officer, employee or agent of their respective institution, any member of an educational board, its officers, employees or agents, 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 or educational board and to hold him harmless from any

expenses connected with the defense, settlement or monetary judgments from such actions. [1972 ex.s. c 23 § 3.]

Liability coverage of university personnel and students: RCW 28B.20.250 through 28B.20.255.

28B.10.850 Capital improvements, bonds for—Authorized—Form, terms, conditions, sale, signatures. 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 authorized to issue general obligation bonds of the state of Washington in the sum of thirty-four million three hundred thousand dollars or so much thereof as shall be required to finance the capital projects relating to the institutions of higher education as set forth in the capital appropriations act, chapter 114, Laws of 1973 1st ex. sess., 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.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1973 1st ex.s. c 135 § 1.]

Severability—1973 1st ex.s. c 135: "If any provision of this 1973 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 135 § 7.] This applies to RCW 28B.10.850 through 28B.10.855.

28B.10.851 Capital improvements, bonds for—Account created, purpose. The proceeds from the sale of the bonds authorized herein, 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 hereby created in the state general fund. [1973 1st ex.s. c 135 § 2.]

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.852 Capital improvements, bonds for—Bond anticipation notes, purpose. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing 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 "bond anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds or notes

authorized by RCW 28B.10.850 through 28B.10.855 shall be deposited in the state higher education construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in RCW 28B.10.850 through 28B.10.855 and for the payment of expenses incurred in the issuance and sale of the bonds. [1973 1st ex.s. c 135 § 3.]

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.853 Capital improvements, bonds for—Bond redemption fund created, purpose—Compelling transfer of funds to. The state higher education bond redemption fund of 1973 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by RCW 28B.10.850 through 28B.10.855. 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 bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state higher education bond redemption fund of 1973 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein. [1973 1st ex.s. c 135 § 4.]

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.854 Capital improvements, bonds for—Legislature may provide additional means of revenue. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and RCW 28B.10.850 through 28B.10.855 shall not be deemed to provide an exclusive method for such payment. [1973 1st ex.s. c 135 § 5.]

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

28B.10.855 Capital improvements, bonds for—As legal investment for state and municipal funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1973 1st ex.s. c 135 § 6.]

Severability—1973 1st ex.s. c 135: See note following RCW 28B.10.850.

Chapter 28B.12 COLLEGE WORK-STUDY PROGRAM

Sections

- 28B.12.010 Created.
- 28B.12.020 Purpose.
- 28B.12.030 Definitions.
- 28B.12.040 Commission to develop and administer program—
Agreements by commission authorized, limitation.

28B.12.050 Disbursal of college work-study funds after recommendations of panel.

28B.12.060 Rules and regulations—Upon recommendation of panel—Mandatory provisions.

28B.12.070 Annual report of institutions to commission.

28B.12.010 Created. There is hereby created a program of financial aid to students pursuing a post-secondary education which shall be known as the college work-study program. [1974 ex.s. c 177 § 1.]

Appropriation for biennium ending June 30, 1975: "There is hereby appropriated from the general fund to the commission on higher education the sum of seven hundred fifty thousand dollars, or so much thereof as may be necessary, for the biennium ending June 30, 1975, to carry out the provisions of sections 1 through 7 of this act. Of this amount, not more than fifty thousand dollars may be used by the commission as administrative costs in carrying out the purposes of sections 1 through 7 of this act." [1974 ex.s. c 177 § 8.]

Severability—1974 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." [1974 ex.s. c 177 § 10.] The above annotations apply to RCW 28B.12.010, 28B.12.020, 28B.12.030, 28B.12.040, 28B.12.050, 28B.12.060 and 28B.12.070.

28B.12.020 Purpose. The purpose of the program created in RCW 28B.12.010 is to provide financial assistance to needy students attending eligible post-secondary institutions in the state of Washington by stimulating and promoting their employment, thereby enabling them to pursue courses of study at such institutions. An additional purpose of this program shall be to provide such needy students, wherever possible, with employment related to their academic pursuits. [1974 ex.s. c 177 § 2.]

Severability—**Appropriation**—1974 ex.s. c 177: See notes following RCW 28B.12.010.

28B.12.030 Definitions. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall clearly indicate another or different meaning or intent:

(1) The term "needy student" shall mean a student enrolled or accepted for enrollment at a post-secondary institution who, according to a system of need analysis approved by the commission on higher education, demonstrates a financial inability, either parental, familial, or personal, to bear the total cost of education for any semester or quarter.

(2) The term "eligible institution" shall mean any post-secondary institution in this state accredited by the Northwest Association of Secondary and Higher Schools or any public vocational-technical school in the state. [1974 ex.s. c 177 § 3.]

Severability—**Appropriation**—1974 ex.s. c 177: See notes following RCW 28B.12.010.

28B.12.040 Commission to develop and administer program—Agreements by commission authorized, limitation. The commission on higher education shall develop and administer the college work-study program and shall be authorized to enter into agreements with employers and eligible institutions for the operation of the program. These agreements shall include such provisions as the commission on higher education may deem

necessary or appropriate to carry out the purposes of this chapter.

The share from funds disbursed under the college work-study program of the compensation of students employed under such program in accordance with such agreements shall not exceed eighty percent of the total such compensation paid such students. [1974 ex.s. c 177 § 4.]

Severability—Appropriation—1974 ex.s. c 177: See notes following RCW 28B.12.010.

Purpose—1974 ex.s. c 177: RCW 28B.12.020.

28B.12.050 Disbursal of college work-study funds after recommendations of panel. The commission on higher education shall disburse college work-study funds after consideration of recommendations of a panel convened by the commission on higher education, and composed of representatives of eligible institutions and post-secondary education advisory and governing bodies. Said commission shall establish criteria for the panel designed to achieve such distribution of assistance under this chapter among students attending eligible institutions as will most effectively carry out the purposes of this chapter. [1974 ex.s. c 177 § 5.]

Severability—Appropriation—1974 ex.s. c 177: See notes following RCW 28B.12.010.

28B.12.060 Rules and regulations—Upon recommendation of panel—Mandatory provisions. The commission on higher education shall adopt rules and regulations as may be necessary or appropriate for effecting the provisions of this chapter, and not in conflict with this chapter, in accordance with the provisions of chapter 28B.19 RCW, the state higher education administrative procedure act. Such rules and regulations shall be promulgated upon consideration of advice from a panel composed of representatives of institutional financial aid officers, a representative of employee organizations having membership in the classified service of the state's institutions of higher education, and will include provisions designed to make employment under such work-study program reasonably available, to the extent of available funds, to all eligible students in eligible post-secondary institutions in need thereof. Such rules and regulations shall include:

(1) Providing work under the college work-study program which will not result in the displacement of employed workers or impair existing contracts for services.

(2) Furnishing work only to a student who:

(a) Is capable, in the opinion of the eligible institution, of maintaining good standing in such course of study while employed under the program covered by the agreement; and

(b) Has been accepted for enrollment as at least a half-time student at the eligible institution or, in the case of a student already enrolled in and attending the eligible institution, is in good standing and in at least half-time attendance there either as an undergraduate, graduate or professional student; and

(c) Is not pursuing a degree in theology.

(3) Placing priority on the securing of work opportunities for students who are residents of the state of Washington as defined in RCW 28B.15.011 through 28B.15.014.

(4) Provisions to assure that in the state institutions of higher education utilization of this student work-study program:

(a) Shall only supplement and not supplant classified positions under jurisdiction of chapter 28B.16 RCW;

(b) That all positions established which are comparable shall be identified to a job classification under the higher education personnel board's classification plan and shall receive equal compensation;

(c) Shall not take place in any manner that would replace classified positions reduced due to lack of funds or work; and

(d) That work study positions shall only be established at entry level positions of the classified service. [1974 ex.s. c 177 § 6.]

Severability—Appropriation—1974 ex.s. c 177: See notes following RCW 28B.12.010.

28B.12.070 Annual report of institutions to commission. Each eligible institution shall submit to the commission on higher education an annual report in accordance with such requirements as are promulgated by the commission. [1974 ex.s. c 177 § 7.]

Severability—Appropriation—1974 ex.s. c 177: See notes following RCW 28B.12.010.

Chapter 28B.13 1974 BOND ISSUE FOR CAPITAL IMPROVEMENTS FOR INSTITUTIONS OF HIGHER EDUCATION

Sections

- 28B.13.010 Bonds authorized—Amount—Purpose—Form, conditions of sale, etc.
 28B.13.020 Disposition of proceeds from sale of bonds.
 28B.13.030 Bond anticipation notes—Authorized—Payment of principal and interest on—Disposition of proceeds from sale of bonds and notes.
 28B.13.040 Bond redemption fund—Created—Use—Rights of bond owner and holder.
 28B.13.050 Chapter not exclusive method for payment of interest and principal on bonds.
 28B.13.060 Bonds as legal investment for public funds.
 28B.13.900 Severability—1974 1st ex.s. c 181.

State finance committee: Chapter 43.33 RCW.

28B.13.010 Bonds authorized—Amount—Purpose—Form, conditions of sale, etc. 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 authorized to issue general obligation bonds of the state of Washington in the sum of seven million eight hundred one thousand eighty dollars or so much thereof as shall be required to finance the capital project relating to institutions of higher education as set forth in the capital appropriations act, chapter 197 (SSB 3253), Laws of 1974 ex. sess., 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.

The state finance committee is authorized to prescribe the form of such bonds, and the time of sale of all or any portion or portions of such bonds, and the conditions of sale and issuance thereof.

The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise to pay the principal and interest when due. The committee may provide that the bonds, or any of them, may be called prior to the due date thereof under such terms and conditions as it may determine. The state finance committee may authorize the use of facsimile signatures in the issuance of the bonds. [1974 ex.s. c 181 § 1.]

28B.13.020 Disposition of proceeds from sale of bonds. The proceeds from the sale of the bonds authorized by 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 in the state general fund. [1974 ex.s. c 181 § 2.]

28B.13.030 Bond anticipation notes—Authorized—Payment of principal and interest on—Disposition of proceeds from sale of bonds and notes. At the time the state finance committee determines to issue such bonds or a portion thereof, it may, pending the issuing 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 "bond anticipation notes". Such portion of the proceeds of the sale of such bonds that may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The proceeds from the sale of bonds or notes authorized by this chapter shall be deposited in the state higher education construction account of the general fund in the state treasury and shall be used exclusively for the purposes specified in this chapter and for the payment of expenses incurred in the issuance and sale of the bonds. [1974 ex.s. c 181 § 3.]

28B.13.040 Bond redemption fund—Created—Use—Rights of bond owner and holder. The state higher education bond redemption fund of 1974 is hereby created in the state treasury, which fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. 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 bond retirement and interest requirements, and on July 1st of each year the state treasurer shall deposit such amount in the state higher education bond redemption fund of 1974 from any general state revenues received in the state treasury and certified by the state treasurer to be general state revenues.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer

and payment of funds as directed therein. [1974 ex.s. c 181 § 4.]

28B.13.050 Chapter not exclusive method for payment of interest and principal on bonds. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized herein and this chapter shall not be deemed to provide an exclusive method for such payment. [1974 ex.s. c 181 § 5.]

28B.13.060 Bonds as legal investment for public funds. The bonds authorized by this chapter shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1974 ex.s. c 181 § 6.]

28B.13.900 Severability—1974 ex.s. c 181. 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. [1974 ex.s. c 181 § 7.]

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 fourteen million eight hundred eighty thousand 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 acts from time to time, 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-'76 2nd ex.s. c 126 § 1; 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
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 28B.15.700 Nonresident tuition fees—Exemption under Western regional higher education compact contracts.
 28B.15.900 "State colleges" and "institutions of higher education" defined for certain purposes.

Children of certain citizens missing in action or prisoners of war exempt from tuition—Limitations—Procedure: RCW 28B.10.265.

Uniform minor student capacity to borrow act: Chapter 26.30 RCW.

28B.15.005 "Colleges and universities" defined. "Colleges and universities" for the purposes of this chapter shall mean Central Washington State College at Ellensburg, Eastern Washington State College at Cheney, Western Washington State College at Bellingham, The Evergreen State College in Thurston county, community colleges as are provided for in chapter 28B.50 RCW, the University of Washington and Washington State University. [1971 ex.s. c 279 § 1.]

Severability—1971 ex.s. c 279: "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 279 § 25.] This applies to RCW 28B.10.825, 28B.15.005, 28B.15.031, 28B.15.041, 28B.15.100, 28B.15.200, 28B.15.300 through 28B.15.400, 28B.15.500 through 28B.15.630, 28B.40.361, 28B.50.320 and 28B.50.340 through 28B.50.370.

28B.15.011 Classification as resident or nonresident student—Legislative intent. It is the intent of the legislature that the state institutions of higher education shall apply uniform rules as prescribed in RCW 28B.15.012 through 28B.15.014, and not otherwise, in determining whether students shall be classified as resident students or nonresident students for all tuition and fee purposes. [1971 ex.s. c 273 § 1.]

Severability—1971 ex.s. c 273: "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 provisions to other persons or circumstances is not affected." [1971 ex.s. c 273 § 6.] This applies to RCW 28B.15.011 through 28B.15.014.

28B.15.012 Classification as resident or nonresident student—Definitions. Whenever used in chapter 28B.15 RCW:

(1) The term "institution" shall mean a public university, college, or community college within the state of Washington.

(2) The term "resident student" shall mean a student who has had a domicile in the state of Washington for the period of one year immediately prior to the time of commencement of the first day of the semester or quarter for which he has registered at any institution and has in fact established a bona fide domicile in this state for other than educational purposes: *Provided*, That a nonresident student enrolled for more than six hours per semester or quarter shall be considered as attending for educational purposes only, and for tuition and fee paying purposes only such period of enrollment shall not be counted toward the establishment of a bona fide domicile of one year in this state unless such student proves that

he has in fact established a bona fide domicile in this state for other than educational purposes.

(3) The term "nonresident student" shall mean any student who does not qualify as a "resident student" under the provisions of RCW 28B.15.011 through 28B.15.014 as now or hereafter amended.

(4) The term "domicile" shall denote a person's true, fixed and permanent home and place of habitation. It is the place where he intends to remain, and to which he expects to return when he leaves without intending to establish a new domicile elsewhere.

(5) The term "minor" shall mean a male or female person who is not deemed and taken to be of full age and majority for all purposes under RCW 26.28.010, as now law or hereafter amended; the term "emancipated minor" shall mean a minor whose parents have entirely surrendered the right to the care, custody, and earnings of such minor and whose parents no longer in any way support or maintain such minor.

(6) The term "qualified person" shall mean a person qualified to determine his own domicile. A person of full age and majority for all purposes under RCW 26.28.010, as now law or hereafter amended, or an emancipated minor is so qualified.

(7) The term "parent-qualified student" shall mean a student having a parent who has a domicile in the state of Washington but who does not have legal custody of the student because of divorce or legal separation.

(8) The terms "he" or "his" shall apply to the female as well as the male sex unless the context clearly requires otherwise. [1972 ex.s. c 149 § 1; 1971 ex.s. c 273 § 2.]

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.013 Classification as resident or nonresident student—Standards for determining classification. (1)

The establishment of a new domicile in the state of Washington by a qualified person formerly domiciled in another state has occurred if he is physically present in Washington and can show satisfactory proof that he is without a present intention to return to such other state or to acquire a domicile at some other place outside of Washington.

(2) Except as provided in subsection (3)(d) of this section, an unemancipated minor shall be classified as a resident student only if his parents or legally appointed guardian or person having legal custody shall have established a domicile in this state.

(3) Unless proven to the contrary it shall be presumed that:

(a) The domicile of an unemancipated minor is that of his father; or if no father, that of his mother; or if there is a legally appointed guardian, that of such guardian: *Provided*, That if one parent has legal custody of the minor, the domicile of such minor shall be that of such parent except as otherwise provided in subsection (3)(d) of this section.

(b) The domicile of any qualified person, including a married woman, shall be determined according to the individual's situation and circumstances rather than by marital status or sex.

(c) A person does not lose a domicile in the state of Washington by reason of his residence in any state or country while a member of the civil or military service of this state or of the United States, nor while engaged in the navigation of the waters of this state or of the United States or of the high seas; any resident student who remains in this state when his parents, having theretofore been domiciled in this state, remove from this state, shall be entitled to classification as a resident student so long as his attendance (except summer sessions) at an institution in this state is continuous.

(d) The establishment of a domicile in the state of Washington in accordance with the provisions of this section by the parent of a parent-qualified student shall entitle the student to classification as a resident student.

(4) To aid the institution in deciding whether a student, parent, legally appointed guardian or the person having legal custody of a student is domiciled in the state of Washington the following rules shall be applied:

(a) Failure to register or to pay state taxes or fees on a motor vehicle, mobile home, travel trailer, boat, or any other item of personal property for which state registration or the payment of a state tax or fee is required is conclusive evidence of a failure to establish a Washington domicile.

(b) Attendance at an institution with the aid of financial assistance provided by another state or governmental unit or agency thereof is conclusive evidence of a failure to establish a Washington domicile.

(c) Permanent full time employment in Washington by a person will be a factor in considering the establishment of a Washington domicile.

(d) Registration to vote for state officials in Washington will be a factor in considering the establishment of a Washington domicile.

(e) Any person not a citizen of the United States cannot establish a Washington domicile until such person is eligible and has applied for an immigration visa, unless such person is the dependent minor of a parent or legal guardian who is domiciled in Washington.

(5) After a student has registered at an institution his classification shall remain unchanged in the absence of satisfactory evidence to the contrary. A student wishing to apply for a change in classification shall reduce such evidence to writing and file it with the institution. In any case involving an application for a change from nonresident to resident status, the burden of proof shall rest with the applicant. Any change in classification, either nonresident to resident, or the reverse, shall be based upon written evidence maintained in the files of the institution and, if approved, shall take effect on the first day of the semester or quarter following the date such evidence was filed with the institution. Any determination of classification shall be considered a ruling on a contested case subject to review only under procedures prescribed by chapter 28B.19 RCW. [1972 ex.s. c 149 § 2; 1971 ex.s. c 273 § 3.]

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.014 Classification as resident or nonresident student—Certain persons to be classified as resident

students. Regardless of age or domicile, the following shall be entitled to classification as resident students:

(1) Any person who is employed not less than twenty hours per week at an institution, and the children and spouses of such persons.

(2) Military personnel and federal employees residing or stationed in the state of Washington, and the children and spouses of such military personnel and federal employees.

(3) All veterans, as defined in RCW 41.04.005, whose final permanent duty station was in the state of Washington so long as such veteran is receiving federal vocational or educational benefits conferred by virtue of his military service. [1971 ex.s. c 273 § 4.]

Severability—1971 ex.s. c 273: See note following RCW 28B.15.011.

28B.15.020 "General tuition fees" defined—Use. The term "general tuition fees" as used in this chapter shall mean the general tuition fees charged students registering at the state's colleges and universities for quarters or semesters other than the summer session, which fees are to be used as follows: At the University of Washington, solely for the purposes provided in RCW 28B.15.210; at Washington State University, solely for the purposes provided in RCW 28B.15.310; at each of the state colleges, solely for the purposes provided in RCW 28B.40.370; and at the community colleges, for the purposes provided in RCW 28B.50.320, 28B.50.360 and 28B.50.370. [1969 ex.s. c 223 § 28B.15.020. Prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81.080, part.]

28B.15.031 "Operating fees" defined. The term "operating fees" as used in this chapter shall include the fees, other than general tuition fees, charged all students registering at the state's colleges and universities but shall not include fees for short courses, marine station work, experimental station work, correspondence or extension courses, and individual instruction and student deposits or rentals, disciplinary and library fines, which colleges and universities shall have the right to impose, laboratory, gymnasium, health, and student activity fees, or fees, charges, rentals, and other income derived from any or all revenue producing lands, buildings and facilities of the colleges or universities heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land, or the appurtenances thereon, or such other special fees as may be established by any college or university board of trustees

or regents from time to time. Operating fees shall be used as otherwise provided by law or by rule or regulation of the board of trustees or regents of each of the state's colleges or universities for the general operation and maintenance of their particular institution. [1971 ex.s. c 279 § 2.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.041 "Services and activities fees" defined (as amended by 1973 1st ex.s. c 46 § 1). The term "services and activities fees" as used in this chapter is defined to mean fees, other than general tuition and operating fees, charged to all students registering at the state's community colleges, state colleges, and universities. Services and activities fees shall be used as otherwise provided by law or by rule or regulation of the board of trustees or regents of each of the state's community colleges, state colleges or universities for the express purpose of funding student activities and programs of their particular institution. [1973 1st ex.s. c 46 § 1; 1971 ex.s. c 279 § 3.]

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.041 "Services and activities fees" defined (as amended by 1973 1st ex.s. c 130 § 2). The term "services and activities fees" as used in this chapter is defined to mean fees, other than general tuition and operating fees, charged to all students registering at the state's colleges and universities. Services and activities fees shall be used as otherwise provided by law or by rule or regulation of the board of trustees or regents of each of the state's colleges or universities for the express purpose of funding student activities and programs of their particular institution. Student activity fees, student use fees, student building use fees, special student fees or other similar fees charged to all full time students, or to all students, as the case may be, registering at the state's colleges or universities and pledged for the payment of bonds heretofore or hereafter issued for, or other indebtedness incurred to pay, all or part of the cost of acquiring, constructing, or installing any lands, buildings, or facilities of the nature described in RCW 28B.10.300 shall be included within and deemed to be services and activities fees. [1973 1st ex.s. c 130 § 2; 1971 ex.s. c 279 § 3.]

Reviser's note: RCW 28B.15.041 was amended twice during the 1973 first extraordinary session of the legislature, each without reference to the other.

For rule of construction concerning sections amended more than once at the same legislative session, see RCW 1.12.025.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.043 "Services and activities fees"—Allocations from for institutional loan fund for needy students. See RCW 28B.10.825.

28B.15.100 Fees set by individual institutions—Minimum. The board of regents and board of trustees at each of the state's colleges and universities shall charge to and collect from each of the students registering at the particular institution such general tuition fees, operating fees, services and activities fees, and other fees as such board shall in its discretion determine: *Provided*, That such general tuition fees and operating fees for quarters other than summer session shall be in at least the amounts for the respective institutions as set forth in RCW 28B.15.200, 28B.15.300, 28B.15.400 and 28B.15.500 as now or hereafter amended: *Provided further*, That the fees charged by boards of trustees of community college districts shall be consistent with RCW 28B.15.500 as now or hereafter amended. [1971 ex.s. c 279

§ 5; 1969 ex.s. c 223 § 28B.15.100. Prior: (i) 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part. (ii) 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part. (iii) 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569, part. Formerly RCW 28.80.030, part. (iv) 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part. Formerly RCW 28.81.080, part.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.200 Fees—University of Washington—Minimum. Minimum general tuition fees, operating fees, and services and activities fees at the University of Washington other than at summer quarters shall be as follows:

(1) For schools and departments other than programs leading to the degrees of doctor of medicine and doctor of dental surgery, for

(a) Full time resident students

(i) General tuition fee, thirty-nine dollars;

(ii) Operating fees, eighty-nine dollars; and

(iii) Services and activities fees, thirty-seven dollars:

Provided, That the total of the general tuition fees together with operating fees and services and activities fees shall not exceed an amount of five hundred sixty-four dollars in any one academic year exclusive of the summer session.

(b) Full time nonresident students

(i) General tuition fee, not less than one hundred fifteen dollars;

(ii) Operating fees, three hundred one dollars; and

(iii) Services and activities fees, thirty-seven dollars.

(2) For programs leading to the degrees of doctor of medicine and doctor of dental surgery, for

(a) Full time resident students

(i) General tuition fee, not less than one hundred eleven dollars;

(ii) Operating fees, eighty-nine dollars; and

(iii) Services and activities fees, thirty-seven dollars.

(b) Full time nonresident students

(i) General tuition fee, not less than one hundred eighty-one dollars;

(ii) Operating fees, three hundred one dollars; and

(iii) Services and activities fees, thirty-seven dollars.

[1971 ex.s. c 279 § 6; 1970 ex.s. c 102 § 4; 1969 ex.s. c 223 § 28B.15.200. Prior: 1963 c 181 § 1, part; 1961 ex.s. c 10 § 1, part; 1959 c 186 § 1, part; 1947 c 243 § 1, part; 1945 c 187 § 1, part; 1933 c 169 § 1, part; 1931 c 48 § 1, part; 1921 c 139 § 1, part; 1919 c 63 § 1, part; 1915 c 66 § 2, part; RRS § 4546, part. Formerly RCW 28.77.030, part.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.210 Fees—University of Washington—Disposition of general tuition fees. Within thirty-five

days from the date of collection thereof, all general tuition fees at the University of Washington, including general tuition fees to be charged students registering in the schools of medicine and dentistry, shall be paid into the state treasury and credited as follows:

One-half of the general tuition fees, or such larger portion as may be necessary to prevent a default in the payments required to be made out of the bond retirement fund, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter, and thirty-seven dollars and fifty cents per each nonresident student per quarter to the "University of Washington bond retirement fund" and the remainder thereof to the "University of Washington building account." The sum so credited to the University of Washington building account shall be used exclusively for the purpose of erecting, altering, maintaining, equipping, or furnishing buildings except for any sums transferred as authorized in RCW 28B.20.725(3). The sum so credited to the University of Washington bond retirement fund shall be used for the payment of principal of and interest on bonds outstanding as provided by chapter 28B.20 RCW except for any sums transferred as authorized in RCW 28B.20.725(5). [1969 ex.s. c 223 § 28B.15.210. Prior: 1963 c 224 § 1; 1959 c 193 § 7; 1957 c 254 § 6; 1947 c 243 § 2; 1945 c 187 § 2; 1939 c 156 § 1; 1933 c 169 § 2; 1921 c 139 § 2; 1919 c 63 § 2; 1915 c 66 § 3; Rem. Supp. 1947 § 4547. Formerly RCW 28.77.040.]

28B.15.220 Fees—University of Washington—Disposition of special fees. All fees except general tuition fees shall be held by the board of regents as a revolving fund and expended for the purposes for which collected and be accounted for in accordance with law: *Provided*, That the board of regents shall have authority to place in a separate fund or funds any or all fees or rentals exacted for the use of facilities of any dormitory, hospital, or infirmary building, and the board of regents shall have authority to pledge any or all such fees for the retirement of any bonds that may be issued for the construction of such dormitory, hospital, or infirmary building. [1969 ex.s. c 223 § 28B.15.220. Prior: 1961 c 229 § 6; prior: (i) 1933 ex.s. c 24 § 1; 1921 c 139 § 3; 1919 c 63 § 3; 1915 c 66 § 4; RRS § 4548. (ii) 1947 c 64 § 2, part; 1933 ex.s. c 23 § 2, part; 1925 ex.s. c 91 § 2, part; Rem. Supp. 1947 § 4543-2, part. Formerly RCW 28.77.050.]

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.15.300 Fees—Washington State University—Minimum. Minimum general tuition fees, operating fees, and services and activities fees at Washington State University other than at summer semesters shall be as follows:

A. For schools, colleges and departments other than the college of veterinary medicine, for

(1) Full time resident students:

(a) General tuition fee, fifty-eight dollars and fifty cents;

(b) Operating fees, one hundred thirty-three dollars and fifty cents; and

(c) Services and activities fees, fifty-five dollars and fifty cents: *Provided*, That the total of the general tuition fees together with operating fees and services and activities fees shall not exceed an amount of five hundred sixty-four dollars in any one academic year exclusive of the summer session.

(2) Full time nonresident students:

(a) General tuition fee, one hundred seventy-two dollars and fifty cents;

(b) Operating fees, four hundred fifty-one dollars and fifty cents; and

(c) Services and activities fees, fifty-five dollars and fifty cents.

B. For the college of veterinary medicine, for

(1) Full time resident students:

(a) General tuition fee, not less than one hundred sixty-two dollars and fifty cents;

(b) Operating fees, one hundred thirty-three dollars and fifty cents; and

(c) Services and activities fees, fifty-five dollars and fifty cents.

(2) Full time nonresident students:

(a) General tuition fee, not less than two hundred seventy-one dollars and fifty cents;

(b) Operating fees, four hundred fifty-one dollars and fifty cents; and

(c) Services and activities fees, fifty-five dollars and fifty cents. [1971 ex.s. c 279 § 7; 1970 ex.s. c 102 § 5; 1969 ex.s. c 223 § 28B.15.300. Prior: 1963 c 180 § 1, part; 1961 ex.s. c 11 § 1, part; 1949 c 73 § 1, part; 1931 c 49 § 1, part; 1921 c 164 § 1, part; Rem. Supp. 1949 § 4569. Formerly RCW 28.80.030, part.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.310 Fees—Washington State University—Disposition of general tuition fees. Within thirty-five days from the date of collection thereof, all such general tuition fees shall be paid into the state treasury and credited to the Washington State University bond retirement fund, one-half of such general tuition fees or such larger portion as may be necessary to prevent a default in the payments required to be made out of such bond retirement fund; the remainder thereof to the Washington State University building account.

The sum so credited to the Washington State University building account shall be expended by the board of regents for buildings, equipment, or maintenance on the campus of Washington State University as may be deemed most advisable and for the best interests of the university, except for any sums transferred as authorized by law. Expenditures so made shall be accounted for in accordance with existing law and shall not be expended until appropriated by the legislature.

The sum so credited to the Washington State University bond retirement fund shall be used to pay and secure the payment of the principal of and interest on tuition fee bonds issued by the university, except for any sums which may be transferred out of such fund as authorized by law. [1969 ex.s. c 223 § 28B.15.310. Prior: 1961 ex.s. c 11 § 2; 1935 c 185 § 1; 1921 c 164 § 2; RRS § 4570. Formerly RCW 28.80.040.]

28B.15.380 Exemption from payment of fees at universities. In addition to any other exemptions as may be provided by law, the board of regents at the universities may exempt the following classes of persons from the payment of general tuition fees, operating fees, or services and activities fees except for individual instruction fees: (1) All veterans as defined in RCW 41.04.005: *Provided*, That such persons are no longer entitled to federal vocational or educational benefits conferred by virtue of their military service: *And provided further*, That if any such veterans have not resided in this state for one year prior to registration said board may exempt them up to one-half of the tuition payable by other nonresident students. (2) Members of the staffs of the University of Washington and Washington State University. (3) Teachers in the public schools of the state who supervise the cadet teachers from the University of Washington. (4) Children after the age of nineteen years of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state. [1973 1st ex.s. c 191 § 1; 1971 ex.s. c 279 § 8; 1969 ex.s. c 269 § 8; 1969 ex.s. c 223 § 28B.15.380. Prior: (i) 1947 c 46 § 1; 1921 c 139 § 5; Rem. Supp. 1947 § 4550. Formerly RCW 28.77.070. (ii) 1921 c 164 § 4, part; RRS § 4572, part. Formerly RCW 28.80.060, part.]

Effective date—1973 1st ex.s. c 191: "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 on July 1, 1973." [1973 1st ex.s. c 191 § 4.] This applies to RCW 28B.15.380, 28B.15.385, 28B.15.520 and 28B.40.361.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.15.385 "Totally disabled" defined for certain purposes. For the purposes of RCW 28B.15.380, 28B.15.385, 28B.15.520 and 28B.40.361 the phrase "totally disabled" as used in RCW 28B.15.380, 28B.15.520 and 28B.40.361 shall mean a person who has become totally and permanently disabled for life by bodily injury or disease, and is thereby prevented from performing any occupation or gainful pursuit. [1973 1st ex.s. c 191 § 5.]

Effective date—1973 1st ex.s. c 191: See note following RCW 28B.15.380.

28B.15.400 Fees—State colleges. The board of trustees of Eastern Washington State College, Central Washington State College, Western Washington State College and The Evergreen State College shall each quarter other than summer session charge to and collect from each of the full time students registered at the respective colleges general tuition fee, operating fees, and services and activities fees as follows:

(1) Full time resident students:

(a) General tuition fee, not less than twenty-five dollars;

(b) Services and activities fees, not less than forty-eight dollars and fifty cents; and

(c) Operating fees, an amount which, together with such general tuition fee and services and activities fees, will not be more than one hundred sixty-nine dollars.

(2) Full time nonresident students:

(a) General tuition fee, not less than ninety-six dollars;

(b) Services and activities fees, not less than forty-eight dollars and fifty cents; and

(c) Operating fees, an amount which, together with such general tuition fee and services and activities fees, will not be more than four hundred fifty-three dollars. [1971 ex.s. c 279 § 9; 1970 ex.s. c 102 § 6; 1969 ex.s. c 223 § 28B.15.400. Prior: 1967 c 47 § 10, part; 1965 ex.s. c 147 § 1, part; 1963 c 143 § 1, part; 1961 ex.s. c 13 § 3, part; prior: (i) 1921 c 136 § 1, part; 1905 c 85 § 3, part; RRS § 4616, part. (ii) 1909 c 97 p 255 § 12, part; RRS § 4619, part. Formerly RCW 28.81.080, part.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.415 Fees—State colleges—Exemption of certain veterans from payment of fees. See RCW 28B.40.361.

28B.15.500 Fees—Community colleges—Fees for regular, summer school, and part time students. General tuition fees, operating fees and services and activities fees charged students registered at each community college other than at summer quarters shall be as follows:

(1) Full time resident students:

(a) General tuition fee, forty-one dollars and fifty cents per quarter;

(b) Operating fees, twenty-seven dollars per quarter; and

(c) Services and activities fees, not more than fourteen dollars and fifty cents per quarter.

(2) Full time nonresident students:

(a) General tuition fee, one hundred thirty-one dollars and fifty cents per quarter;

(b) Operating fees, eighty-one dollars per quarter; and

(c) Services and activities fees, not more than fourteen dollars and fifty cents per quarter.

Tuition, operating fees and services and activities fees consistent with the above schedule will be fixed by the

state board for community colleges for summer school students.

The board of trustees shall charge such fees for part time students, ungraded courses, noncredit courses, and short courses as it, in its discretion, may determine, not inconsistent with the rules and regulations of the state board for community college education. [1971 ex.s. c 279 § 10; 1969 ex.s. c 223 § 28B.15.500. Prior: 1967 ex.s. c 8 § 31, part. Formerly RCW 28.85.310, part.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.520 Community colleges—Waiver of fees at—Purpose—Authorized. Notwithstanding any other provision of this chapter or chapter 28B.50 RCW as now or hereafter amended the college board shall be authorized to permit the boards of trustees of the various community colleges to waive general tuition fees, operating fees, services and activities fees, and any other fees for needy students who are enrolled in a course of study or program which will enable them to finish their high school education and obtain a high school diploma or certificate, and for children after the age of nineteen years of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state. [1973 1st ex.s. c 191 § 2; 1971 ex.s. c 279 § 12; 1970 ex.s. c 59 § 8; 1969 ex.s. c 261 § 29. Formerly RCW 28.85.310, part.]

Effective date—1973 1st ex.s. c 191: See note following RCW 28B.15.380.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.010.

Severability—1970 ex.s. c 59: "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." [1970 ex.s. c 59 § 11.] This applies to RCW 28B.15.520, 28B.15.523, 28B.15.525, 28B.50.320 and 28B.50.350.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.15.523 Community colleges—Waiver of fees at—"Needy student" defined for purposes of. For the purpose of RCW 28B.15.520, "needy student" shall mean a student who demonstrates to the board of trustees the financial inability, either through his parents, family and/or personally, to meet the total cost of general tuition fees, operating fees, services and activities fees, and any other fees or any portion of such total for any quarter or semester. [1971 ex.s. c 279 § 13; 1970 ex.s. c 59 § 9. Like section formerly RCW 28.85.313.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: See note following RCW 28B.15.520.

28B.15.525 Community colleges—Waiver of fees at—State board to establish criteria for trustees' determination of applicant as "needy student"—Limitation. The state board for community college education shall establish the criteria for the determination of

financial need which shall be the basis for the determination by a board of trustees or their designee that a particular applicant is a "needy student" In establishing the criteria the state board shall consider the following:

(1) (a) Assets and income of the student; and/or

(b) Assets and income of the parents, or other individuals legally responsible for the care and maintenance of the student;

(2) The cost of attending the community college the student is enrolled in;

(3) (a) The cost of requirements for the student and the dependent members of his family; and/or

(b) The cost of requirements for the parents, or other individuals legally responsible for the care and maintenance of the student.

The total of the general tuition fees, operating fees, services and activities fees, and any other fees waived for any quarter or semester shall not exceed the sum of subsections (2) and (3) less subsection (1). [1971 ex.s. c 279 § 14; 1970 ex.s. c 59 § 10. Like section formerly RCW 28.85.315.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: See note following RCW 28B.15.520.

28B.15.530 Waiver of tuition and fees for needy and disadvantaged students—Limitations. Notwithstanding any other provision of this chapter or the laws of the state, the boards of trustees or regents of each of the state's colleges or universities, and the various community colleges consistent with regulations and procedures established by the state board for community college education, may waive, in whole or in part, the tuition, operating, and services and activities fees for needy or disadvantaged students: *Provided*, That a state-wide student aid advisory committee shall be appointed by the director of the state board for community college education to assist the director in the promulgation of such regulations and procedures and to provide specific advice to the director in the development of priorities recognizing need based on income levels: *Provided further*, That the total dollar amount of such tuition and fee waivers awarded in any quarter or semester other than summer shall be not more than three percent of an amount determined by estimating total collections from tuition, operating and services and activities fees had no waivers under this section been made and deducting the portion of that total amount which is attributable to the difference between resident and nonresident fees: *Provided further*, That the total dollar amount of such tuition and fee waivers awarded by the various community colleges in any quarter other than summer shall be not more than three percent of an amount determined by estimating the total collections of all community colleges from tuition, operating and services and activities fees had no waivers under this section been made and deducting the portion of that total amount which is attributable to the difference between resident and nonresident fees: *Provided further*, That no waiver under this section shall be granted to a person who is not a "resident student" as defined in RCW 28B.15.010. [1971 ex.s. c 279 § 11.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Classification as resident or nonresident student: RCW 28B.15.011 through 28B.15.014.

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.

28B.15.600 Refunds or cancellation of fees. The boards of regents of the state's universities and the boards of trustees of the state colleges and community colleges may refund or cancel in full general tuition fees, operating fees, and services and activities fees if the student withdraws from the university or college prior to the sixth day of instruction of the quarter or semester for which said fees have been paid or are due. If the student withdraws on or after the sixth day of instruction, said boards of regents and trustees may refund or cancel up to one-half of said fees, provided such withdrawal occurs within the first thirty calendar days following the beginning of instruction. Said boards of

regents and trustees may extend the refund or cancellation period for students called into the military service of the United States.

Said boards of regents and trustees may refund other fees pursuant to such rules as they may prescribe. [1973 1st ex.s. c 46 § 2; 1971 ex.s. c 279 § 15; 1969 ex.s. c 223 § 28B.15.600. Prior: 1963 c 89 § 1. Formerly RCW 28.76.430.]

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.610 Voluntary fees of students. The provisions of this chapter shall not apply to or affect any student fee or charge which the students voluntarily maintain upon themselves for student purposes only. [1969 ex.s. c 223 § 28B.15.610. Prior: 1915 c 66 § 8; RRS § 4552. Formerly RCW 28.77.065.]

28B.15.620 Vietnam veterans' exemption from tuition and fees increase at institutions of higher learning. Veterans of the Vietnam conflict who have served in the southeast Asia theater of operations attending institutions of higher learning shall be exempted from the payment of any increase in tuition and fees as are imposed by this 1971 amendatory act and shall not be required to pay more than the total amount of tuition and fees in effect on March 29, 1971: *Provided further*, That for the purposes of this exemption, "veterans of the Vietnam conflict" shall be those persons who have been on active federal service as a member of the armed military or naval forces of the United States between a period commencing August 5, 1964, and ending on such date as shall thereafter be determined by duly adopted concurrent resolution of the legislature of this state or by presidential proclamation or concurrent resolution of the congress terminating the conflict involving United States forces battling in South Vietnam and who qualify as a resident student under RCW 28B.15.012. [1972 ex.s. c 149 § 3; 1971 ex.s. c 279 § 22.]

Reviser's note: Phrase "this 1971 amendatory act", see note following RCW 28B.15.005.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.630 Additional fee for programs leading to graduate degree. An additional fee of sixty dollars per academic year shall be added to the operating fee for all students enrolled in a program leading to a graduate degree. [1971 ex.s. c 279 § 23.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.15.650 Use of state bank credit cards. See RCW 28B.10.290.

28B.15.700 Nonresident tuition fees—Exemption under Western regional higher education compact contracts. See RCW 28B.70.050.

28B.15.900 "State colleges" and "institutions of higher education" defined for certain purposes. See RCW 28B.10.015.

Chapter 28B.16

STATE HIGHER EDUCATION PERSONNEL LAW

Sections

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- 28B.16.910 Short title.
- 28B.16.920 Effective date—1969 ex.s. c 36.
- 28B.16.930 Severability—1969 ex.s. c 36.

Civil service, director of personnel: RCW 41.06.130.

Civil service, personnel board: RCW 41.06.110.

College work-study program not to supplant classified positions: RCW 28B.12.060.

28B.16.010 Purpose. The interests of state institutions of higher education and the employees of those institutions will be furthered by the enactment of a system of personnel administration designed specifically to meet particular needs in connection with employer-employee relations in the state institutions of higher education. The general purpose of this chapter is to establish a system of personnel administration for the institutions of higher education in the state which is based on merit principles and scientific methods, and which governs the appointment, promotion, transfer, layoff, recruitment, retention, classification and pay plans, removal, discipline, and welfare of employees covered under this chapter. [1969 ex.s. c 36 § 1. Formerly RCW 28.75.010.]

Reviser's note: Term "this act" has been changed to "this chapter" throughout chapter 28B.16 RCW even though said act, 1969 ex.s. c 36, in sections 21 through 25 thereof amended or repealed sections in chapter 41.06 RCW. Thus RCW 28B.16.920, an effective date section, and RCW 28B.16.930, a severability section, are applicable to RCW 41.06.020, 41.06.040, 41.06.070, 41.06.200 and the repeal of RCW 41.06.050.

28B.16.020 Definitions. Unless the context clearly indicates otherwise, the words used in this chapter have the meaning given in this section.

(1) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington State College, Eastern Washington State College, Western Washington State College, The Evergreen State College, and the various state community colleges;

(2) "Board" means the higher education personnel board established under the provisions of RCW 28B.16.060;

(3) "Related boards" means the state board for community college education and the higher education personnel board; and such other boards, councils and commissions related to higher education as may be established;

(4) "Classified service" means all positions at the institutions of higher education subject to the provisions of this chapter;

(5) "Competitive service" means all positions in the classified service for which a competitive examination is required as a condition precedent to appointment;

(6) "Noncompetitive service" means all positions in the classified service for which a competitive examination is not required. [1969 ex.s. c 36 § 2. Formerly RCW 28.75.020.]

28B.16.030 Application. The provisions of this chapter shall apply to all personnel of the institutions of higher education and related boards except those exempted under the provisions of RCW 28B.16.040. [1969 ex.s. c 36 § 3. Formerly RCW 28.75.030.]

28B.16.040 Exempted personnel. The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(1) Members of the governing board of each institution and related boards, all presidents, vice presidents

and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education.

(2) Student, part time, or temporary employees, and part time professional consultants, as defined by the higher education personnel board, employed by institutions of higher education and related boards.

(3) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

(4) The personnel director of the higher education personnel board and his confidential secretary.

(5) The governing board of each institution, and related boards, may also exempt from this chapter, subject to the employees right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: *Provided*, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the higher education personnel board under this provision. [1969 ex.s. c 36 § 4. Formerly RCW 28.75.040.]

28B.16.050 Returning to classified service status after temporary appointment in exempt position. Any employee having a classified service status in a position may take a temporary appointment in an exempt position, with the right to return to his regular position, or to a like position, at the conclusion of such temporary appointment. [1969 ex.s. c 36 § 5. Formerly RCW 28.75.050.]

28B.16.060 State higher education personnel board—Members—Appointment—Qualifications—Payment for meetings and travel expenses—Chairman—Vice chairman—Quorum—Public record—Personnel director—Office—Board personnel. (1) There is hereby created a state higher education personnel board composed of three members appointed by the governor, subject to confirmation by the senate: *Provided*, That no member appointed when the legislature was not in session shall continue to be a member of the board after the thirtieth day of the next legislative session unless his appointment shall have been approved by the senate. The first such board shall be appointed within thirty days after the effective date of this chapter for terms of two, four, and six years. Each odd-numbered year thereafter the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a

candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board shall be paid fifty dollars for each day in which he has actually attended a meeting of the board officially held. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for travel expenses incurred in the discharge of their official duties in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended.

(3) At its first meeting following the appointment of all of its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) The board shall appoint a personnel director who shall be the chief staff officer for the board. In preparing matters for consideration by the board and in coordinating the implementation of the board's rules and regulations, the personnel director shall work in conjunction with the campus personnel officers and their staffs at each institution of higher education, and in the case of community colleges, with the state board for community college education. When necessary, the personnel director may request the creation of task forces drawn from the four-year institutions of higher education, and representatives of the various state community colleges through the state board for community college education, for the accomplishment of any projects undertaken by the board. The director may employ necessary personnel for the board, and the board may appoint and compensate hearing officers to hear and conduct appeals. The board shall establish an office for the conduct of its business. [1975-'76 2nd ex.s. c 34 § 73; 1969 ex.s. c 36 § 6. Formerly RCW 28.75.060.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

28B.16.070 State higher education personnel board—Meetings, hearings—Calling of, notice—Hearing officers, appointment—Majority of board to approve material released, findings—Oaths. (1) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be called by the chairman of the board or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the personnel director, and all members of the board shall be notified.

(2) No release of material, or statement of findings shall be made except with the approval of a majority of the board.

(3) In the conduct of hearings or investigations, a member of the board, or the director of personnel, or the

hearing officer appointed to conduct the hearing, may administer oaths. [1969 ex.s. c 36 § 7. Formerly RCW 28.75.070.]

28B.16.080 Personnel officers for institutions and related boards—Duties—Utilizing state department of personnel—Community college control in board. Each institution of higher education and each related board shall designate an officer who shall perform duties as personnel officer. The personnel officer at each institution or related board shall direct, supervise, and manage administrative and technical personnel activities for the classified service at the institution or related board consistent with policies established by the institution or related board and in accordance with the provisions of this chapter and the rules and regulations approved and promulgated thereunder. Institutions may undertake jointly with one or more other institutions to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects. The services of the state department of personnel may also be utilized by the institutions or related boards pursuant to RCW 41.06.080.

The state board for community college education shall have general supervision and control over activities undertaken by the various state community colleges pursuant to this section. [1969 ex.s. c 36 § 8. Formerly RCW 28.75.080.]

28B.16.090 Rules and regulations—To provide for employee participation in policy—Notice before board action—Rules available without charge. It shall be the duty of the personnel board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty days' notice to, and considered proposals from, employee representatives and institutions or related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge. [1969 ex.s. c 36 § 9. Formerly RCW 28.75.090.]

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.]

28B.16.120 Rules and regulations—Employee suspensions, reductions, dismissals or demotions—Notice of—Appeal to board—Appeals on exempt or nonexempt classification. (1) The board, in the promulgation of rules and regulations governing suspensions for cause, shall not authorize an institution of higher education or related board to suspend an employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties. The board shall require that the institution of higher education or related board give written notice to the employee not later than one day after the suspension takes effect, stating the reason for and the duration thereof. The institution or related board shall file a copy of the notice with the personnel director.

(2) Any employee who is reduced, dismissed, suspended, or demoted, after completing his probationary period of service as provided by the rules and regulations of the board, shall have the right to appeal to the board not later than thirty days after the effective date of such action. The employee shall be furnished with specified charges in writing when the action is taken. Such appeal shall be in writing and shall be heard by the board or its hearing officer duly appointed by the board within thirty days after notice of appeal is filed. The board shall furnish the institution or related board concerned with a copy of the appeal in advance of the hearing.

(3) Any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in subsection (2) above: *Provided*, That when an appeal is initiated under this subsection the decision of the higher education personnel board shall be final. [1969 ex.s. c 36 § 12. Formerly RCW 28.75.120.]

28B.16.130 Hearings on appeals—Notice of—Subpoena power and oaths, certification to court of refusal to comply with—Record of hearing. Hearings on such appeals shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where the employee so requests, and shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law. Both the employee and his institution or related board shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses and give evidence before the board. Members of the board may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and if the evidence warrants punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court. The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge therefor. Payment of the cost of a transcript used on appeal shall await determination of the appeal, and shall be made by the employing institution or related board if the employee prevails. [1969 ex.s. c 36 § 13. Formerly RCW 28.75.130.]

Interim committee on public employees collective bargaining—Duties—Reports—Recommendations to include proposed legislation: RCW 41.56.420.

28B.16.140 Hearings on appeals—Board findings, conclusions, and order. Within thirty days after the conclusion of the hearing the board shall make and fully record in its permanent records findings of fact, conclusions of law when the construction of a rule, regulation or statute is in question, reasons for the action taken and its order based thereon, which shall be final subject to action by the court on appeal as hereinafter provided, at the same time sending a copy of the findings, conclusions and order by registered mail to the employing institution and to the employee at his address as given at the hearing or to a representative designated by him to receive the same. [1969 ex.s. c 36 § 14. Formerly RCW 28.75.140.]

28B.16.150 Appeal from board order—Grounds—Notice of—Transcript, exhibits. (1) Within thirty days after the recording of the order and the mailing thereof, either party may appeal to the superior court of the county in which the employing institution or related board is located on one or more of the grounds that the order was:

(a) Founded on or contained error of law, which shall specifically include error in construction or application of any pertinent rules or regulations;

(b) Contrary to a preponderance of the evidence as disclosed by the entire record with respect to any specified finding or findings of fact;

(c) Materially affected by unlawful procedure;

(d) Based on violation of any constitutional provision; or

(e) Arbitrary or capricious.

(2) Such grounds will be stated in a written notice of appeal filed with the court, with copies thereof served at the office of the personnel director or a member of the board, and the adverse party, all within the time stated.

(3) Within thirty days after service of such notice, or within such further time as the court may allow, the board shall transmit to the court a certified transcript, with exhibits, of the hearing; but by stipulation between the employing institution or related board and the employee the transcript may be shortened, and either party unreasonably refusing to stipulate to such limitation may be ordered by the court to pay the additional cost involved. The court may require or permit subsequent corrections or additions to the transcript. [1969 ex.s. c 36 § 15. Formerly RCW 28.75.150.]

28B.16.160 Appeal from board order—Court review, scope—Appeal to supreme court or court of appeals. (1) The court shall review the hearing without a jury on the basis of the transcript and exhibits, except that in case of alleged irregularities in procedure before the board not shown by the transcript the court may order testimony to be given thereon. The court shall upon request by either party hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated. Appeal shall be available to the supreme court or

the court of appeals from the order of the superior court as in other civil cases. [1971 c 81 § 72; 1969 ex.s. c 36 § 16. Formerly RCW 28.75.160.]

28B.16.170 Hearings in appeals—Hearing examiners may handle appeals—Appeals to board from. The board may appoint one or more hearings examiners to preside over, conduct and make recommended decisions, including findings of fact and conclusions of law in all cases of employee appeals to the board. The hearings examiner shall conduct hearings in the same manner and shall have the same authority as provided in hearings by the board. The recommended decisions shall be forthwith served upon the parties and transmitted to the board together with a transcript of the evidence. Within thirty days of service of the recommended decision, any party adversely affected may file exceptions, and thereafter all parties may present written and oral argument to the board, which shall consider the whole record or such portions thereof as may be cited by the parties. [1969 ex.s. c 36 § 26. Formerly RCW 28.75.170.]

28B.16.180 Terminated employee can request placement on reemployment list—Reinstated employee entitled to employment rights. (1) An employee who is terminated from service may request the institution or related board to place his name on an appropriate reemployment list and the institution shall grant this request where the circumstances are found to warrant reemployment.

(2) Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, retirement, and OASDI credits. [1973 1st ex.s. c 46 § 3; 1969 ex.s. c 36 § 17. Formerly RCW 28.75.180.]

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

28B.16.190 Employee's pay withheld unless compliance with chapter—Certification of payrolls. A disbursing officer shall not pay any employee holding a position covered by this chapter unless the employment is in accordance with this chapter or the rules, regulations, and orders issued hereunder. The board and the institutions of higher education including the state board for community college education which shall act for the various state community colleges shall jointly establish procedures for the certification of payrolls. [1969 ex.s. c 36 § 19. Formerly RCW 28.75.190.]

28B.16.200 Higher education personnel board service fund—Created—Contributions to—Use—Disbursements. There is hereby created a fund within the state treasury, designated as the "higher education personnel board service fund," to be used by the board as a revolving fund for the payment of salaries, wages, and operations required for the administration of the provisions of this chapter, the budget for which shall be subject to review and approval and appropriation by the legislature. An amount not to exceed one-half of one percent of the salaries and wages for all positions in the

classified service shall be contributed from the operations appropriations of each institution and the state board for community college education and credited to the higher education personnel board service fund as such allotments are approved pursuant to chapter 43.88 RCW. Subject to the above limitations, such amount shall be charged against the allotments pro rata, at a rate to be fixed by the state budget director from time to time, which will provide the board with funds to meet its anticipated expenditures during the allotment period.

Moneys from the higher education personnel board service fund shall be disbursed by the state treasurer by warrants on vouchers duly authorized by the board. [1969 ex.s. c 36 § 20. Formerly RCW 28.75.200.]

28B.16.210 Employees currently under classified service system retain status—Rules, plans adopted under chapter 41.06 RCW, effective until superseded by board action. Employees covered by this chapter who are currently serving under the jurisdiction of a classified service system established pursuant to chapter 1, Laws of 1961 (chapter 41.06 RCW), shall automatically retain their permanent or probationary status acquired under such system.

Rules, classification plans, compensation plans and bargaining units adopted or established pursuant to chapter 1, Laws of 1961 (chapter 41.06 RCW), shall remain in effect until superseded by action of the board pursuant to this chapter. [1969 ex.s. c 36 § 29. Formerly RCW 28.75.210.]

28B.16.220 Chapter not to alter existing collective bargaining unit or agreement. Nothing contained in this chapter shall be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement. [1969 ex.s. c 36 § 31. Formerly RCW 28.75.220.]

28B.16.230 Unfair labor practices provisions applicable to chapter. Each and every provision of RCW 41.56.140 through 41.56.190 shall be applicable to the state higher education personnel law and the higher education personnel board, or its designee, whose final decision shall be appealable to the higher education personnel board, which is granted all powers and authority granted to the department of labor and industries by RCW 41.56.140 through 41.56.190. [1973 c 62 § 6; 1969 ex.s. c 215 § 14. Formerly RCW 28.75.230.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.16.900 Federal requirements make conflicts in chapter voidable—Rules and regulations to implement federal requirements. If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to an institution of higher education or related board, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the institutions or related boards directly affected, and such findings or determination shall not affect the operation of the remainder of

this chapter in its application to the institutions or related board concerned. The board shall make such rules and regulations as may be necessary to meet federal requirements which are a condition precedent to the receipt of federal funds by the institutions of higher education, related boards, or the state. [1969 ex.s. c 36 § 18. Formerly RCW 28.75.900.]

28B.16.910 Short title. This chapter shall be referred to as the State Higher Education Personnel Law. [1969 ex.s. c 36 § 27. Formerly RCW 28.75.910.]

28B.16.920 Effective date—1969 ex.s. c 36. This chapter shall become effective on July 1, 1969. [1969 ex.s. c 36 § 30. Formerly RCW 28.75.920.]

Reviser's note: See note following RCW 28B.16.010.

28B.16.930 Severability—1969 ex.s. c 36. If any provision of this chapter or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end any section, sentence, or word is declared to be severable. [1969 ex.s. c 36 § 28. Formerly RCW 28.75.930.]

Reviser's note: See note following RCW 28B.16.010.

Chapter 28B.17

HIGHER EDUCATION ASSISTANCE AUTHORITY

Sections

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28B.17.010 Authority created. There is hereby created a corporate governmental agency of the state, constituting a public corporation and governing instrumentality, which shall be known as the "Washington State Higher Education Assistance Authority". [1973 1st ex.s. c 120 § 1.]

Severability—1973 1st ex.s. c 120: "If any provision of this 1973 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 120 § 22.]

Appropriation—1973 1st ex.s. c 120: "There is hereby appropriated from the general fund the sum of two hundred fifty thousand dollars, or so much thereof as may be necessary, to the authority for the biennium ending June 30, 1975 for the payment of expenses of the authority in carrying out the provisions of sections 1 through 21 of this 1973 act: *Provided, however,* That no portion of the sum hereby appropriated shall be available, or shall be used by the authority, for the purchase of any loans as provided in section 6 of this 1973 act, for the payment of any principal of, or redemption premium or interest on any bonds or notes of the authority issued pursuant to section 7 of this 1973 act, or for deposit in any debt service reserve fund created pursuant to section 8 of this 1973 act." [1973 1st ex.s. c 120 § 23.]

The above annotations apply to RCW 28B.17.010 through 28B.17.210. Sections 6, 7 and 8 of the 1973 act are codified in RCW 28B.17.060, 28B.17.070 and 28B.17.080.

28B.17.020 Purpose of authority. The purpose of the authority shall be to assist needy and disadvantaged persons to pursue a post-secondary education by purchasing loans made by banking and educational institutions to such persons to help them meet the rising costs of such education, thereby encouraging those institutions to make such loans, and increasing the supply of moneys available therefor. The legislature hereby finds and determines that it is in the public interest and essential to the welfare and well-being of the inhabitants of the state and to the proper growth and development of the state to encourage and assist every student who has the desire and capacity to pursue a post-secondary education. It is hereby further found and determined that the rising costs to students of post-secondary education are placing the goal of such study beyond the financial reach of a growing proportion of our potential student population, particularly those young men and women who are needy and disadvantaged, with a consequent irreparable loss to the state of valuable talents vital to its welfare. It is, therefore, found and determined that the authority created by RCW 28B.17.010 is a proper and effective means of meeting this fiscal crisis in post-secondary education, which is contrary to the general welfare of the inhabitants of the state. [1973 1st ex.s. c 120 § 2.]

28B.17.030 Definitions. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall clearly indicate another or different meaning or intent:

(1) The term "authority" shall mean the Washington state higher education assistance authority, the corporate governmental agency created by RCW 28B.17.010.

(2) The term "bank" shall mean any bank, bank and trust company, or trust company, savings bank, building and loan association, private bank, or savings and loan association which is organized under the laws of this state or any national banking association, located in the state.

(3) The term "bonds" and "notes" shall mean the bonds and notes, respectively, issued by the authority pursuant to this chapter.

(4) The term "commission" shall mean the commission on higher education created by RCW 28B.81.010.

(5) The term "council" shall mean the council on higher education created by RCW 28B.80.010.

(6) The term "post-secondary educational institution" shall mean (a) any public or private college, university or community college approved by the commission, and

(b) any business, trade, technical, vocational or other occupational school approved by the commission.

(7) The term "disadvantaged or needy student" shall mean a student (a) who is enrolled, or accepted for enrollment, at a post-secondary educational institution located within the state or a student who is a resident of the state and who is enrolled, or accepted for enrollment, at a post-secondary educational institution wherever located, and (b) who demonstrates to the authority the financial inability, either through his parents, family and/or personally, to meet the total cost of board, room, books, tuition and fees and incidental expenses for any semester or quarter.

(8) The term "federal guaranteed loan program" shall mean the program for the insurance by the federal government of loans to students, enacted by the higher education act of nineteen hundred sixty-five, as amended, and all rules and regulations promulgated thereunder, or any successor legislation thereto providing for similar federal insurance of student loans.

(9) The term "loan" shall mean a loan to a needy or disadvantaged student the principal and interest of which is guaranteed by the federal government pursuant to the federal guaranteed loan program, made for the purpose of assisting such person to meet his expenses of post-secondary education.

(10) The term "state" shall mean the state of Washington.

(11) The term "state agency" shall mean any office, department, board, commission, bureau, division, public corporation, agency or instrumentality of the state. [1973 1st ex.s. c 120 § 3.]

28B.17.040 Board of directors of the authority. (1) The authority shall be governed and all of its corporate powers exercised by a board of directors which shall consist of the nine citizen members of the council, each of whose term as a member of the authority shall be co-terminus with his term as a citizen member of the council, and six additional members, one of which shall be a student financial aid officer, one of which shall be representative of the banking industry, and two of which shall be students enrolled in a Washington post-secondary educational institution, and two of which shall serve at large appointed by the governor, each of whom shall be of full age, a citizen of the United States and a resident of the state. Prior to the appointment of the student representative the governor shall consult with elected student government officers. The six additional members shall have four year terms except for the two students who shall serve for two years: *Provided*, That the initial terms of the additional members, except for student members, shall be staggered so that terms shall be for one year, two years, three years, and four years respectively: *Provided further*, That the initial terms of the student members shall be staggered so that terms shall be for one year and two years respectively: *Provided further*, That a student member's term of office shall be terminated if said student member ceases to be enrolled in a post-secondary educational institution during said term of office.

(2) Vacancies shall be filled for the unexpired terms in the same manner as original appointments.

(3) Directors shall receive per diem in lieu of compensation, and travel expenditures, in accordance with standard rates for part time boards, councils and commissions as certified by the state budget director.

(4) The board of directors shall elect from its members each year a chairman and vice chairman who shall serve for terms of one year and who shall be eligible for reelection for successive terms.

(5) A majority of the directors of the authority shall constitute a quorum for the transaction of any business and, unless a greater number is required by the bylaws of the authority, the act of a majority of the directors present at any meeting shall be deemed the act of the board.

(6) The board of directors shall adopt bylaws for the authority, and may appoint such officers and employees as it deems advisable, fix their compensation and prescribe their duties, and may delegate to one or more of its members, or its officers, agents or employees, such powers and duties as it may deem proper.

(7) The board of directors may elect an executive committee of not less than six members who, in intervals between meetings of the board, may transact such business of the authority as the board may from time to time authorize. Unless otherwise provided by the bylaws, a majority of the members of such committee shall constitute a quorum for the transaction of any business and the act of a majority of the members of the executive committee present at any meeting shall be deemed the act of such committee. [1973 1st ex.s. c 120 § 4.]

28B.17.050 Powers of the authority. Except as otherwise limited by this chapter and subject to Title 34 RCW, the authority shall have power:

- (1) To have a seal and alter the same at pleasure;
- (2) To make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;
- (3) To sue and be sued;
- (4) To make and alter bylaws for its organization and internal management;
- (5) To acquire, hold and dispose of real and personal property for its corporate purposes;
- (6) Subject to any agreement with bondholders or noteholders, to invest moneys of the authority not required for immediate use, including proceeds from the sale of any bonds or notes, (a) in obligations of the state or the United States of America or any agency of either, (b) in obligations the principal and interest of which are guaranteed by the state or the United States of America, (c) in obligations of any corporation wholly owned by the United States of America, (d) in obligations of any corporation sponsored by the United States of America which are or may become eligible as collateral for advances to member banks as determined by the board of governors of the federal reserve system, or (e) in certificates of deposit or time deposits secured in such manner as the authority shall determine;

(7) To appoint officers, agents and employees, prescribe their duties and qualifications and fix their compensation;

(8) To purchase and contract to purchase loans made by banks, pension funds, credit unions, post-secondary educational institutions, and the commission, all subject to the provisions of RCW 28B.17.060;

(9) To procure or require the procurement of a policy or policies of group life insurance to insure repayment of loans acquired by the authority in event of the death of the borrower;

(10) Subject to provisions of RCW 28B.17.060 and any agreement with bondholders or noteholders, to renegotiate or refinance any loan in default; to waive any default or consent to the modification of the terms of any loan; to forgive all or part of any loan; and to commence any action or proceeding to protect or enforce any right conferred upon it by law, loan agreement, contract or other agreement;

(11) To prescribe rules and regulations setting forth standards and criteria for the granting of applications for loan purchases, insofar as such standards and criteria are not inconsistent with this chapter;

(12) To make and execute contracts for the administration, servicing or collection of any loan acquired by the authority and pay the reasonable value of services rendered to the authority pursuant to such contracts;

(13) To make, execute, and carry out contracts for the administration, servicing or collection of loans, including National Student Defense Loans, owned by banks and post-secondary educational institutions and to establish, revise from time to time, charge and collect from such banks and post-secondary educational institutions such fees in connection therewith as the authority may determine;

(14) To make, execute, and carry out contracts with any state agency for the collection of amounts voluntarily pledged to the state by recipients of awards under the need grant program administered by the commission and to charge and collect from such agency the reasonable value of its services rendered in connection with such contracts;

(15) Subject to any agreement with bondholders or noteholders, to sell any loans acquired by the authority at public or private sale and at such price or prices and on such terms as the authority shall determine;

(16) Subject to the provisions of the federal guaranteed loan program, to establish, revise from time to time, charge and collect such premiums or fees in connection with loans and purchases thereof, as the authority shall determine;

(17) Subject to any agreement with bondholders or noteholders, to purchase bonds or notes of the authority, which shall thereupon be canceled, at a price not exceeding (a) if the bonds or notes are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date thereon, (b) if the bonds or notes are not then redeemable, the redemption price applicable on the first date after such purchase upon which the notes or bonds become subject to redemption at the option of the authority plus accrued interest to said date, or (c) if the bonds or notes are not

redeemable prior to their respective maturities at the option of the authority, one hundred four per centum of the principal amount thereof plus accrued interest to the date of purchase;

(18) To borrow money and to issue negotiable bonds and notes and to provide for the rights of the holders thereof;

(19) To engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

(20) To contract for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof, or from any other source, and to comply, subject to the provisions of this chapter, with the terms and conditions thereof;

(21) To promulgate such rules and regulations, not inconsistent with the provisions of the federal guaranteed loan program and subject to the approval of the commission, as are necessary to carry out its functions and duties in the administration of this chapter; and

(22) To do any and all things necessary or convenient to carry out its purposes and exercise the powers given and granted in this chapter. [1973 1st ex.s. c 120 § 5.]

28B.17.060 Purchase of student loans. (1) The authority may purchase and contract to purchase loans made by banks, pension funds, credit unions, and post-secondary educational institutions located within the state, and from the commission, all upon such terms and conditions as the authority may prescribe by rule or regulation, including, if the seller is a bank, the requirement that such bank make new loans in an amount equal to the purchase price received from the authority: *Provided*, That the authority shall not purchase a loan to any borrower who is then in default on an outstanding loan unless provisions satisfactory to the authority are made to cure such default.

(2) Notwithstanding anything to the contrary provided in this chapter, the authority may, subject to the provisions of the federal guaranteed loan program, forgive or suspend all or part of the payment of any loan pursuant to such rules or regulations as the authority shall prescribe: *Provided*, That the authority shall not so forgive or suspend any such payment, unless it shall, on behalf of the borrower and on such terms and conditions as it shall deem proper, set apart and apply an amount equal to the payment so forgiven or suspended from available funds of the authority not required by the terms of any bond resolution for the payment of principal of or interest on bonds payable during the current state fiscal year or the current operating expenses of the authority.

(3) Any person otherwise qualifying for a loan from a bank, pension fund, credit union, post-secondary educational institution or the commission shall not be disqualified by reason of his being under the age of majority. For the purposes of applying for, receiving and repaying such a loan, any such person shall be deemed to have full legal capacity to act, and shall have all the rights, powers, privileges and obligations of a person of full age

with respect thereto. In no event shall lack of legal capacity to act by reason of nonage be a defense to an action or claim based upon a loan made by a bank, pension fund, credit union, post-secondary educational institution or the commission, or upon a loan held by the authority. [1973 1st ex.s. c 120 § 6.]

Reviser's note: See notes following RCW 28B.17.010.

28B.17.070 Bonds and notes of the authority. (1) The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds and notes in conformity with the applicable provisions of the Uniform Commercial Code in such principal amounts as, in the opinion of the authority, shall be necessary to provide sufficient funds for achieving the corporate purposes thereof, including the purchase of loans as provided in this chapter, the payment of interest on bonds and notes of the authority, establishment of reserves to secure such bonds and notes, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(2) Except as may otherwise be expressly provided by the authority, all bonds and notes issued by the authority shall be general obligations of the authority, secured by the full faith and credit of the authority and payable out of any moneys, assets, or revenues of the authority, subject only to any agreement with bondholders or note-holders pledging any particular moneys, assets or revenues. In no event shall any bonds or notes constitute an obligation, either general or special, of the state; nor shall the authority have the power to pledge the credit or taxing power of the state or to make its debts payable out of any moneys except those of the authority.

(3) Bonds and notes shall be authorized by a resolution or resolutions of the authority adopted as provided by this chapter: *Provided*, That any such resolution authorizing the issuance of bonds or notes may delegate to an officer or officers of the authority the power to issue such bonds or notes from time to time and to fix the details of any such issues of bonds or notes by an appropriate certificate of such authorized officer.

(4) Such bonds

(a) Shall state (i) the date of issue; (ii) the series of the issue and be consecutively numbered within the series; and (iii) that the bond is payable both as to principal and interest solely out of the assets of the authority and does not constitute an obligation, either general or special, of the state; and

(b) Shall be (i) either registered, registered as to principal only, or in coupon form; (ii) issued in such denominations as the authority may prescribe; (iii) fully negotiable instruments under the laws of this state; (iv) signed on behalf of the authority with the manual or facsimile signature of the chairman or vice chairman of the board, attested by the manual or facsimile signature of the secretary of the board, have the seal of the authority impressed thereon or a facsimile of such seal printed or lithographed thereon, and the coupons attached thereto shall be signed with the facsimile signatures of such chairman or vice chairman and secretary; (v) payable as to interest at such rate or rates and

at such time or times as the authority may determine; (vi) payable as to principal at such times over a period not to exceed forty years from the date of issuance, at such place or places, and with such reserved rights of prior redemption, as the authority may prescribe; (vii) sold at such price or prices, at public or private sale, and in such manner as the authority may prescribe; and the authority may pay all expenses, premiums and commissions which it deems necessary or advantageous in connection with the issuance and sale thereof; and (viii) shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal, redemption premiums, if any, and interest and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.50.330 through 28B.50.400 and this chapter, as may be found to be necessary by the authority for the most advantageous sale thereof, which may include, but not be limited to, covenants with the holders of the bonds as to:

(A) pledging or creating a lien, to the extent provided by such resolution or resolutions, on all or any part of any moneys or property of the authority or of any moneys held in trust or otherwise by others for the payment of such bonds;

(B) otherwise providing for the custody, collection, securing, investment and payment of any moneys of or due to the authority;

(C) the setting aside of reserves or sinking funds and the regulation or disposition thereof;

(D) limitations on the purpose to which the proceeds of sale of any issue of such bonds then or thereafter to be issued may be applied;

(E) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and upon the refunding of outstanding or other bonds;

(F) the procedure, if any, by which the terms of any contract with the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given;

(G) the creation of special funds into which any moneys of the authority may be deposited;

(H) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed pursuant to RCW 28B.17.090, in which event the provisions of such section authorizing appointment of a trustee shall not apply; or limiting or abrogating the right of the holders of bonds to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(I) defining the acts or omissions to act which shall constitute a default in the obligations and duties of the authority and providing for the rights and remedies of the holders of bonds in the event of such default: *Provided*, That such rights and remedies shall not be inconsistent with the general laws of this state and other provisions of this chapter; and

(J) any other matters of like or different character, which in any way affect the security and protection of the bonds and the rights of the holders thereof.

(5) The authority is authorized to provide for the issuance of its bonds for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premiums thereon and any interest accrued or to accrue to the redemption date next succeeding the date of delivery of such refunding bonds. The proceeds of any such bonds issued for the purpose of so refunding outstanding bonds shall be forthwith applied to the purchase or retirement of such outstanding bonds or the redemption of such outstanding bonds on the redemption date next succeeding the date of delivery of such refunding bonds and may, pending such application, be placed in escrow to be applied to such purchase or retirement or redemption on such date. Any such escrowed proceeds, pending such use, may be invested and reinvested only in obligations of or guaranteed by the state or the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, on the outstanding bonds to be so refunded by purchase, retirement or redemption, as the case may be. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded by purchase, retirement or redemption, as the case may be. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner. All such bonds shall be issued and secured and shall be subject to the provisions of this chapter in the same manner and to the same extent as any other bonds issued pursuant to this chapter.

(6) The authority is authorized to issue negotiable bond anticipation notes and may renew the same from time to time but the maximum maturity of such notes, including renewals thereof, shall not exceed seven years from the date of issue of such original notes. Such notes shall be payable from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes may be issued for any corporate purpose of the authority. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations, not inconsistent with the provisions of this subdivision, which the bonds or a bond resolution of the authority may contain. Such notes may be sold at public or private sale. In case of default on its notes or violation of any obligations of the authority to the noteholders, the noteholders shall have all the remedies provided herein for bondholders. Such notes shall be as fully negotiable as the bonds of the authority.

(7) It is the intention of the legislature that any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or

other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(8) Neither the members of the authority nor any person executing the bonds or other obligations shall be liable personally on the bonds or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof. [1973 1st ex.s. c 120 § 7.]

Reviser's note: See notes following RCW 28B.17.010.

28B.17.080 Reserve funds. The authority may create and establish one or more reserve funds to be known as debt service reserve funds and pay into any such reserve fund (a) any proceeds of sale of bonds and notes to the extent provided in the resolution of the authority authorizing the issuance thereof, (b) any moneys directed to be transferred by the authority to such debt service reserve fund, and any other moneys made available to the authority for the purposes of such fund from any other source or sources. The moneys held in or credited to any debt service reserve fund established under this subsection, except as hereinafter provided, shall be used solely for the payment of the principal of bonds of the authority secured by such debt service reserve fund, as the same mature, required payments to any sinking fund established for the amortization of such bonds (hereinafter referred to as "sinking fund payments"), the purchase or redemption of such bonds of the authority, the payment of interest on such bonds of the authority or the payment of any redemption premium required to be paid when such bonds are redeemed prior to maturity. Moneys in such fund shall not be withdrawn therefrom at any time in such amount as would reduce the amount of such fund to less than the amount which the authority shall determine to be reasonably necessary for the purposes of such reserve fund, except for the purpose of paying principal, sinking fund payments, if any, and interest on such bonds of the authority secured by such reserve fund maturing and becoming due for the payment of which other moneys of the authority are not available. Any income or interest earned by, or increment to, any such debt service reserve fund due to the investment thereof may be transferred to any other fund or account of the authority to the extent it does not reduce the amount of such debt service reserve fund below the amount which the authority shall determine to be reasonably necessary for the purposes of such reserve fund. Moneys in any debt service reserve fund not required for immediate use or disbursement may be invested in accordance with the provisions of subsection (6) of RCW 28B.17.050. In computing the amount of any debt service reserve fund for the purposes of this section, securities in which all or a portion of such reserve fund are invested shall be valued at par or, if purchased at other than par, at their amortized cost to the authority. If the authority shall create and establish

one or more debt service reserve funds as herein provided, the authority shall not issue bonds at any time if the amount of any debt service reserve fund at the time of issuance thereof does not equal or exceed the amount which the authority shall determine to be reasonably necessary for the purposes of such reserve fund, unless the authority, at the time of issuance of such bonds, shall deposit in such reserve fund from the proceeds of the bonds to be issued, or otherwise, an amount which together with the amount then in such reserve fund, shall be not less than the amount which the authority shall determine to be reasonably necessary for the purposes of such reserve fund. The authority may create and establish such other reserve funds as it shall deem advisable and necessary. [1973 1st ex.s. c 120 § 8.]

Reviser's note: See notes following RCW 28B.17.010.

28B.17.090 Remedies of bondholders and noteholders. (1) In the event that the authority shall default in the payment of principal or of interest on any issue of bonds or notes after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this chapter, or shall default in any agreement made with the holders of any issue of bonds or notes, the holders of twenty-five per centum in aggregate principal amount of the bonds or notes of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county in which the principal office of the authority is located, and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds or notes for the purposes herein provided.

(2) Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such issue of bonds or notes then outstanding shall, in his or its own name,

(a) enforce all rights of the bondholders or noteholders, including the right to require the authority to collect interest and principal payments on the loans held by it adequate to carry out any agreement as to, or pledge of, such interest and principal payments, and to require the authority to carry out any other agreements with the holders of such bonds or notes and to perform its duties under this chapter;

(b) bring suit upon such bonds or notes;

(c) by action or suit, require the authority to account as if it were the trustee of an express trust for the holders of such bonds or notes;

(d) by action or suit, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds or notes;

(e) declare all such bonds or notes due and payable and if all defaults shall be made good, then with the consent of the holders of twenty-five per centum of the principal amount of such issue of bonds or notes then outstanding, to annul such declaration and its consequences.

(3) Such trustee shall in addition to the foregoing have and possess all the powers necessary or appropriate for the exercise of any functions specifically set forth

herein or incident to the general representation of bondholders or noteholders in the enforcement and protection of their rights.

(4) Before declaring the principal of bonds or notes due and payable, the trustee shall first give thirty days' notice in writing to the governor, to the authority, and to the attorney general of the state.

(5) The superior court shall have jurisdiction of any suit, action or proceeding by the trustee on behalf of bondholders or noteholders. The venue of any such suit, action, or proceeding shall be laid in the county in which the principal office of the authority is located. [1973 1st ex.s. c 120 § 9.]

28B.17.100 State and municipalities not liable on bonds and notes. The bonds, notes and other obligations of the authority shall not be a debt of the state of Washington or of any municipality, and neither the state nor any municipality shall be liable thereon, nor shall they be payable out of any funds other than those of the authority. [1973 1st ex.s. c 120 § 10.]

28B.17.110 Agreement of the state. The state of Washington does hereby pledge to and agree with the holders of any bonds or notes issued under this chapter that the state will not limit or alter the rights hereby vested in the authority to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such bonds or notes together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds or notes. [1973 1st ex.s. c 120 § 11.]

28B.17.120 Bonds and notes as legal investments for public officers and fiduciaries. The bonds and notes of the authority are hereby made securities in which all public officers and bodies of this state, including without limitation the state employees' retirement fund and the public school employees' retirement fund, and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bank and trust companies, trust companies, private banks, savings banks, savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds and notes are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now

or may hereafter be authorized. [1973 1st ex.s. c 120 § 12.]

28B.17.130 Tax exemption and deductions. (1) It is hereby determined that the creation of the authority is in all respects for the benefit of the people of the state, for the improvement of their health and welfare, and for the promotion of the economy, and that said purposes are public purposes and the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter, and the state covenants with the purchasers and all subsequent holders and transferees of bonds and notes issued by the authority, in consideration of the acceptance of and payment for the bonds and notes, that the bonds and notes of the authority issued pursuant to this chapter and the income therefrom shall at all times be free from taxation, except for estate or gift taxes and taxes on transfers.

(2) The property of the authority and its income and operations shall be exempt from taxation and assessments of every kind and nature, other than assessments for local improvements. The authority shall not be required to pay any recording fee or transfer tax of any kind on account of instruments recorded by it or on its behalf.

(3) Notwithstanding the provisions of any general or special law or the provisions of any certificate of incorporation, charter or other articles of organization, all domestic corporations or associations organized for the purpose of carrying on business in the state and all persons are hereby authorized to make contributions to the authority and a sum equal to any such contribution may be deducted from any tax imposed by the provisions of Title 82 RCW. [1973 1st ex.s. c 120 § 13.]

28B.17.140 Moneys of the authority. (1) All moneys of the authority from whatever source derived, except as otherwise authorized or provided in this chapter, shall be paid to the treasurer of the authority and shall be deposited forthwith in a bank or banks in the state designated by the authority. The moneys in such accounts shall be withdrawn on the order of such person or persons as the authority may authorize. All deposits of such moneys shall, if required by the authority, be secured in such manner as the authority may determine. The state auditor and his legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing; the authority shall not be required to pay a fee for any such examination.

(2) The authority shall have power to contract with holders of any of its bonds or notes as to the custody, collection, securing, investment, and payment of any moneys of the authority, of any moneys held in trust or otherwise for the payment of bonds or notes, and to carry out such contract. Moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes and deposits of such moneys may be secured in the same manner as moneys of the

authority, and all banks and trust companies are authorized to give such security for such deposits.

(3) Subject to the provisions of any contract with bondholders or noteholders and to the approval of the state auditor, the authority shall prescribe a system of accounts.

(4) The authority shall submit to the governor, president pro tempore of the senate, speaker of the house of representatives, and the state auditor, within thirty days of the receipt thereof by the authority, a copy of the report of every external examination of the books and accounts of the authority other than copies of the reports of such examinations made by the state auditor. [1973 1st ex.s. c 120 § 14.]

28B.17.150 Limitation of liability. Neither the members of the authority, nor any person or persons acting in its behalf, while acting within the scope of their authority, shall be subject to any personal liability resulting from carrying out any of the powers expressly given in this chapter. [1973 1st ex.s. c 120 § 15.]

28B.17.160 Assistance by state officers, departments, boards and commissions. (1) The commission, council, attorney general and state treasurer, and all other state agencies may render such services to the authority within their respective functions as may be requested by the authority.

(2) Upon request of the authority, any state agency is hereby authorized and empowered to transfer to the authority such officers and employees as it may deem necessary from time to time to assist the authority in carrying out its functions and duties under this chapter. Officers and employees so transferred shall not lose their civil service status or rights. [1973 1st ex.s. c 120 § 16.]

28B.17.170 Annual report. The authority shall submit to the governor, the president pro tempore of the senate, speaker of the house of representatives and the state auditor, within six months after the end of its fiscal year, a complete and detailed report setting forth: (1) Its operations and accomplishments; (2) its receipts and expenditures during such fiscal year in accordance with the categories or classifications established by the authority for its operating and capital outlay purposes, including a listing of all private consultants engaged by the authority on a contract basis and a statement of the total amount paid to each such private consultant; (3) its assets and liabilities at the end of its fiscal year and the status of reserve, special or other funds; and (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year. [1973 1st ex.s. c 120 § 17.]

28B.17.180 Court proceedings—Preferences—Venue. Any action or proceeding to which the authority or the people of the state of Washington may be a party, in which any question arises as to the validity of this chapter, shall be preferred over all other civil causes in all courts of the state of Washington and shall be heard and determined in preference to all other civil business

pending therein irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this chapter in which he may be allowed to intervene. The venue of any such action or proceeding shall be laid in the county in which the principal office of the authority is located. [1973 1st ex.s. c 120 § 18.]

28B.17.190 Corporate existence. The authority and its corporate existence shall continue until terminated by law: *Provided*, That no such law shall take effect so long as the authority shall have bonds, notes and other obligations outstanding, unless adequate provision has been made for the payment thereof. Upon termination of the existence of the authority, all its rights and properties in excess of its obligations shall pass to and be vested in the state. [1973 1st ex.s. c 120 § 19.]

28B.17.200 Inconsistent provisions of other laws superseded. Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, general, special or local, the provisions of this chapter shall be controlling. [1973 1st ex.s. c 120 § 20.]

28B.17.210 Construction—1973 1st ex.s. c 120. This chapter, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes. [1973 1st ex.s. c 120 § 21.]

Chapter 28B.19

STATE HIGHER EDUCATION ADMINISTRATIVE PROCEDURE ACT

Sections

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College work-study program, rules and regulations promulgated under: RCW 28B.12.060.

28B.19.010 Purpose. The interest of state institutions of higher education, those students and other citizens whom the institutions serve, employees, and the public generally, will be furthered by providing a uniform framework for the adoption, identification, and enforcement of rules and regulations governing aspects of institutional operation which affect substantial rights of individuals. The general purpose of this chapter is to provide a uniform framework for promulgation of certain administrative rules and regulations and the conduct of hearings where contested cases arise in connection with those rules and regulations, consistent with the particular needs of institutions of higher education and the people they serve. [1971 ex.s. c 57 § 1.]

Severability—1971 ex.s. c 57: "If any provision of this 1971 amendatory act or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end any section, sentence, or word is declared to be severable." [1971 ex.s. c 57 § 19.] This applies to RCW 28B.19.010 through 28B.19.150, 28B.19.200, 28B.19.210, 28B.10.528 and 34.04.150.

Effective dates—1971 ex.s. c 57: "Sections 1 through 20 of this 1971 amendatory act shall become effective September 1, 1971: *Provided*, That institutions of higher education are authorized and empowered to undertake to perform duties and conduct activities necessary to comply with sections 1 through 16 of this 1971 amendatory act immediately: *Provided further*, That section 21 of this 1971 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 shall take effect immediately." [1971 ex.s. c 57 § 22.]

28B.19.020 Definitions. The words used in this chapter shall have the meaning given in this section, unless the context clearly indicates otherwise:

(1) "Institutions of higher education" are the University of Washington, Washington State University, Central Washington State College, Eastern Washington State College, Western Washington State College, The Evergreen State College, the various community colleges, and the governing boards of each of the above, and the various colleges, divisions, departments, or offices authorized by the governing board of the institution involved to act for the institution, all of which are sometimes referred to in this chapter as "institutions." The various state community colleges are sometimes referred to in this chapter as "community colleges."

(2) "Rule" means any order, directive, or regulation of any institution of higher education which affects the relationship of the general public with the institution, or the relationship of particular segments of the particular educational community such as students, faculty, or other employees, with the institution or with each other, (a) the violation of which subjects a person to a penalty or administrative sanction; or (b) which establishes, alters, or revokes any procedures, practice, or requirement relating to institutional hearings; or (c) which establishes, alters or revokes any qualification or requirement relating to the enjoyment of benefits or privileges conferred by law. The term includes the amendment or repeal of a prior rule but does not include rules, regulations, orders, statements, or policies relating primarily to the following: Standards for admission; academic advancement, academic credits, graduation

and the granting of degrees; tuition and fees, scholarships, financial aids, and similar academic matters; employment relationships; fiscal processes; or matters concerning only the internal management of an institution and not affecting private rights or procedures available to the general public; and such matters need not be established by rule adopted under this chapter unless otherwise required by law.

(3) "Contested case" means a formal or informal proceeding before an institution of higher education, division, department, office, or designated official or representative thereof in which an opportunity for hearing is required by law, constitutional rights, or institutional policy, prior or subsequent to the determination by the institution of the legal rights, duties, or privileges of specific parties. [1971 ex.s. c 57 § 2.]

28B.19.030 Notice of intended action, filing, contents—Oral hearing, when—Questioning procedural validity of rule, estoppel—Rule ineffective on failure to file notice. (1) Prior to the adoption, amendment, or repeal of any rule adopted under this chapter, each institution, college, division, department, or official thereof exercising rule-making authority delegated by the governing board or the president, shall:

(a) Give at least twenty days' notice of its intended action by filing the notice with the code reviser and by mailing the notice to all persons who have made timely request of the institution or related board for advance notice of its rule-making proceedings. Such notice shall include (i) reference to the authority under which the rule is proposed, (ii) a statement of either the terms or substance of the proposed rule or a description of the subjects and issues involved, and (iii) the time when, the place where, and the manner in which interested persons may present their views thereon.

(b) Provide notice to the campus or standard newspaper of the institution involved and to a newspaper of general circulation in the area at least seven days prior to the date of the rule-making proceeding. The notice shall state the time when, place where and manner in which interested persons may present their views thereon and the general subject matter to be covered.

(c) Afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. An opportunity for oral hearing must be granted if requested by twenty-five persons. The institution shall consider fully all written and oral statements respecting the proposed rule.

(2) No rule adopted under this chapter is valid unless adopted in substantial compliance with this section, or, if an emergency rule designated as such, adopted in substantial compliance with RCW 28B.19.040, as now or hereafter amended. In any proceeding a rule cannot be contested on the ground of noncompliance with the procedural requirements of this section, or of RCW 28B.19.040, as now or hereafter amended, after two years have elapsed from the effective date of the rule.

(3) When twenty days notice of intended action to adopt, amend or repeal a rule has not been filed with the code reviser, as required by subsection (1)(a) of this section, the code reviser shall not publish such rule and

such rule shall not be effective for any purpose. [1971 ex.s. c 57 § 3.]

28B.19.040 Emergency rule or amendment. If the institution of higher education finds that immediate adoption or amendment of a rule is necessary for the preservation of the public health, safety, or general welfare, and the observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, the institution may dispense with such requirements and adopt the rule or amendment as an emergency rule or amendment. The institution's finding and a brief statement of the reasons for its finding shall accompany the emergency rule or amendment as filed with the code reviser. An emergency rule or amendment shall not remain in effect for longer than ninety days.

Emergency rules shall become effective upon filing with the code reviser unless an effective date is specified in the rule. [1973 1st ex.s. c 46 § 4; 1971 ex.s. c 57 § 4.]

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability—Effective dates—1971 ex.s. c 57: See notes following RCW 28B.19.010.

28B.19.050 Rules filed—Register of rules—Effective date of rules—Report of compliance. (1) Any rules adopted after September 1, 1971 shall be filed forthwith with the office of the code reviser. The code reviser shall keep a permanent register of such rules open to public inspection.

(2) Emergency rules adopted under RCW 28B.19.040 shall become effective upon filing. All other rules hereafter adopted shall become effective upon the expiration of thirty days after the date of filing, unless a later date is required by statute or specified in the rule.

(3) The code reviser shall report to each regular session of the legislature on the state of compliance of the institutions of higher education with this section. For this purpose, all institutions of higher education shall supply the code reviser with such information as he may request. [1971 ex.s. c 57 § 5.]

28B.19.060 Prior rules—Filing—Validity. Any rules which have been adopted prior to September 1, 1971 shall be filed within six months of that date with the code reviser, who is not authorized to prescribe the form of nor required to publish such rules. Such rules shall not be valid after December 31, 1972, except that they shall continue to be valid for the purpose of proceedings pending as of that date, unless readopted pursuant to this chapter in the form and style of the code reviser: *Provided, however,* That any rules previously adopted and filed in accordance with chapter 34.04 RCW need not be refiled and they shall remain valid as though they had been adopted under this chapter. [1971 ex.s. c 57 § 6.]

28B.19.070 Publication of rules—Judicial notice. The code reviser shall as soon as practicable compile, index and publish in the Washington administrative code

all rules adopted pursuant to this chapter by each institution of higher education and remaining in effect. The code reviser, in his discretion, may omit from publication in the Washington administrative code those rules the publication of which would be unduly cumbersome, expensive or otherwise inexpedient, if such rules are made available in printed or processed form on application to the adopting institution of higher education and if the Washington administrative code states the general subject matter of the rules so omitted and states how copies thereof may be obtained. Judicial notice shall be taken of rules published pursuant to this section. [1971 ex.s. c 57 § 7.]

28B.19.080 Implementing regulations of code reviser.

The code reviser may prescribe regulations for carrying out the provisions of this chapter relating to the filing and publication of rules and notices of intention to adopt rules, including the form and style to be employed by the various institutions of higher education in the drafting of such rules and notices. [1971 ex.s. c 57 § 8.]

28B.19.090 Orders to conform with administrative code style, when. After the rules of institutions of higher education have been published by the code reviser all institution of higher education orders amending or rescinding such rules, or creating new rules, shall be formulated in accordance with the style, format, and numbering system of the Washington administrative code. [1971 ex.s. c 57 § 9.]

28B.19.100 Declaratory judgment on validity of rule—Petition for—Grounds for invalidity. (1) The validity of any rule promulgated by an institution of higher education may be determined upon petition for a declaratory judgment thereon addressed to the superior court of the county in which the primary office of the institution of higher education is located, when it appears that the rule, or its threatened application, interferes with or impairs or immediately threatens to interfere with or impair, the legal rights or privileges of the petitioner. The institution shall be made a party to the proceeding. The declaratory judgment may not be rendered unless the petitioner has first requested the institution to pass upon the validity of the rule in question.

(2) In a proceeding under subsection (1) of this section, the court shall declare the rule invalid only if it finds that it violates constitutional or statutory provision or exceeds the statutory authority of the institution or was adopted without compliance with statutory rule-making procedures established by this chapter. [1971 ex.s. c 57 § 10.]

28B.19.110 Contested cases—Informal procedure—Formal hearing, when—Request for—Conduct. (1) The informal procedures heretofore established or hereafter promulgated by rule by institutions of higher education for the disposition of contested cases, may be utilized by institutions, where authorized by the governing boards of the institutions.

(2) Any person who is charged with an offense potentially punishable by suspension, or termination of his relationship with the institution and (a) who elects to waive the opportunity for an informal hearing, or (b) who by his conduct in the judgment of the hearing officer or board makes it impossible to conduct an informal hearing, or (c) who deems himself aggrieved by the disposition of any contested case following an informal proceeding undertaken pursuant to subsection (1) above, may have charges against him adjudicated in a formal hearing pursuant to RCW 28B.19.120: *Provided*, That any request for a formal hearing is directed to the president of the institution or his designee (i) within ten days after notification of the time and place of an informal hearing, or (ii) within five days after communication of the hearing officer or board chairman ruling that it is impossible to conduct an informal hearing for whatever reason, or (iii) within ten days after conclusion of the informal proceeding and notice of the final decision to the party charged with an offense.

(3) Formal procedures established or hereafter promulgated by rule by institutions of higher education for the disposition of contested cases may be utilized by such institutions where authorized by the governing board.

(4) Where a formal hearing is conducted following conclusion or termination of an informal hearing authorized by subsection (1) above, the formal hearing shall be conducted as if the informal hearing had not commenced or taken place. [1973 1st ex.s. c 46 § 5; 1971 ex.s. c 57 § 11.]

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability—Effective dates—1971 ex.s. c 57: See notes following RCW 28B.19.010.

Classification as resident or nonresident student—As contested case: RCW 28B.15.013.

28B.19.120 Contested cases—Informal procedures—Formal hearings—Notice—Conduct—Record—Scope. (1) In any contested case where informal procedures authorized by RCW 28B.19.110(1) are not used and where the formal procedures are invoked because of necessity or request in accordance with RCW 28B.19.110(2), or by institutional rule in accordance with RCW 28B.19.110(3), as in section 6, chapter 46, Laws of 1973 1st ex. sess. amended, all parties shall be afforded an opportunity for hearing after not less than ten days' notice. The notice shall include:

(a) A statement of the time, place, and nature of the proceeding;

(b) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(c) A reference to the particular rules of the institution involved;

(d) A short and plain statement of the matters asserted. If the institution or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

(2) Hearings may be held or conducted by any officer or committee authorized by the president of any institution of higher education. The hearing officer or committee shall determine whether the hearing shall be open to the educational community in which it takes place, or whether particular persons should be permitted in attendance or excluded from attendance.

(3) Opportunity shall be afforded all parties to respond and present evidence and argument on all issues involved, and to examine and cross-examine witnesses.

(4) Statements, testimony, and all other evidence given at an informal proceeding authorized pursuant to RCW 28B.19.110(1) shall be confidential and shall not be subject to discovery or released to anyone, including the officer or committee conducting a formal hearing or the parties involved, or used for impeachment purposes, without permission of the person who divulged the information.

(5) Unless precluded by law, informal disposition may also be made of any contested case by stipulation, agreed settlement, consent order, or default, or other established informal procedure.

(6) The record in a contested case shall include:

- (a) All documents, motions, and intermediate rulings;
- (b) Evidence received or considered;
- (c) A statement of matters officially noticed;
- (d) Questions and offers of proof, objections, and rulings thereon;
- (e) Proposed findings and exceptions; and
- (f) Any decision, opinion, or report by the officer or committee chairman presiding at the hearing.

(7) Oral proceedings shall be transcribed if necessary for the purposes of rehearing, or court review. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request therefor and payment of the costs thereof.

(8) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(9) Each institution shall adopt appropriate rules of procedure for notice and hearing informal contested cases.

(10) Institutions, or their authorized hearing officer or committee, may:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence, and no person shall be compelled to divulge information which he could not be compelled to divulge in a court of law;

(b) Issue subpoenas;

(c) Take or cause depositions to be taken pursuant to rules promulgated by the institution, and no person shall be compelled to divulge information which he could not be compelled to divulge by deposition in connection with a court proceeding;

(d) Regulate the course of the hearing;

(e) Hold conferences for the settlement or simplification of the issues by consent of the parties;

(f) Dispose of procedural requests or similar matters;

(g) Make decisions or proposals for decisions; and

(h) Take any other action authorized by rule consistent with this chapter. [1973 1st ex.s. c 46 § 6; 1971 ex.s. c 57 § 12.]

Reviser's note: Reference to section 6, chapter 46, Laws of 1973 1st ex. sess. in first paragraph is in apparent error and a result of amendment to House Bill 234 which struck section 3 of the bill but did not change internal reference in this section, section 6, to reflect deletion of section 3.

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Severability—Effective dates—1971 ex.s. c 57: See notes following RCW 28B.19.010.

28B.19.130 Contested cases—Subpoena power—Witness fees and expenses. (1) In any contested case institutions of higher education and their officers or agents conducting hearings:

(a) Shall issue a subpoena upon the request of any party and, to the extent required by institution rule, upon a statement showing general relevance and reasonable scope of the evidence sought; and

(b) May issue a subpoena upon their own motion.

(2) The subpoena powers created by this section shall be state-wide in effect.

(3) Fees and allowances, and the cost of producing records required to be produced by institution subpoena, shall be paid by the party requesting the issuance of the subpoena.

(4) If an individual fails to obey a subpoena, or obeys a subpoena but refuses to testify when requested concerning any matter under examination or investigation at the hearing, the institution issuing the subpoena may petition the superior court of the county where the hearing is being conducted for enforcement of the subpoena. The petition shall be accompanied by a copy of the subpoena and proof of service, and shall set forth in what specific manner the subpoena has not been complied with, and shall ask an order of the court to compel the witness to appear and testify before the hearing body. The court upon such petition shall enter an order directing the witness to appear before the court at a time and place to be fixed in such order and then and there to show cause why he has not responded to the subpoena or has refused to testify. A copy of the order shall be served upon the witness. If it appears to the court that the subpoena was properly issued and that the particular questions which the witness refuses to answer are reasonable and relevant, the court shall enter an order that the witness appear at the time and place fixed in the order and testify or produce the required papers, and on failing to obey said order the witness shall be dealt with as for contempt of court. The court may, in its discretion, require an institution or party to pay fees and allowances for witnesses in the same manner and under the same conditions as provided for witnesses in the courts of this state by chapter 2.40 RCW and RCW 5.56.010, as now or hereafter amended. [1971 ex.s. c 57 § 13.]

28B.19.140 Contested cases—Restrictions upon hearing officer or committee. Except upon notice and opportunity for all parties to be present or to the extent required for the disposition of ex parte matters as authorized by law, no institution officer or committee conducting a hearing in a contested case or preparing a decision, or proposal for decision, shall consult with any person or party on any issue of fact or law in the proceeding, except that in analyzing and appraising the

record for decision any hearing officer or committee may (1) consult with officials of the institution making the decision appealed from, (2) have the aid and advice of one or more personal assistants, (3) have the assistance of other employees of the institution who have not participated in the proceeding in any manner and who are not engaged for the institution in any investigative functions in the same or any current factually related case and who are not engaged for the institution in any prosecutory functions. [1971 ex.s. c 57 § 14.]

28B.19.150 Contested cases—Appeal from final decision in formal proceeding. (1) Any party, including the institution involved, aggrieved by a final decision in a contested case where formal proceeding has been utilized, whether such decision is affirmative or negative in form, is entitled to judicial review thereof only under the provisions of this chapter, and such party may not use any other procedure to obtain judicial review of a final decision, even though another procedure is provided elsewhere by a special statute or a statute of general application. Where the institution's rules provide a procedure for rehearing or reconsideration, and that procedure has been invoked, the decision shall not be final until action has been taken thereon.

(2) Proceedings for review under this chapter shall be instituted by filing a petition in the superior court in the county wherein the primary office of the institution involved is located. All petitions shall be filed, together with an appropriate cost bond securing payment of costs necessary to prepare the record, within thirty days after the service of the final decision by the institution. Copies of the petition shall be served upon the institution or related board and all other parties of record.

(3) The filing of the petition shall not stay enforcement of the decision being appealed. Where other statutes provide for stay or supersedeas of a decision, it may be stayed by the institution or the reviewing court only as provided therein; otherwise the institution may do so, or the reviewing court may order a stay upon such terms as it deems proper.

(4) Within thirty days after service of the petition, or within such further time as the court may allow, the institution shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review; but, by stipulation of all parties to the review proceedings, the record may be shortened. Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require a [or] permit subsequent corrections or additions to the record when deemed desirable.

(5) The review shall be conducted by the court without a jury and shall be confined to the record, except that in cases of alleged irregularities in procedure before the institution now [not] shown in the record, testimony thereon may be taken in the court. The court shall, upon request, hear oral argument and receive written briefs.

(6) The court may affirm the decision appealed from, or remand the case for further proceedings; or it may

reverse the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

- (a) In violation of any state or federal constitutional provision; or
- (b) In excess of the statutory authority or jurisdiction of the institution; or
- (c) Made upon unlawful procedure; or
- (d) Affected by other error of law; or
- (e) Clearly erroneous in view of the entire record as submitted and the public policy contained in the act of the legislature authorizing the decision or order; or
- (f) Arbitrary or capricious. [1971 ex.s. c 57 § 15.]

28B.19.200 Parts of chapter conflicting with federal requirements deemed inoperative. If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state or to an institution of higher education, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict and with respect to the institutions directly affected, and such findings or determination shall not affect the operation of the remainder of this chapter in its application to other institutions. [1971 ex.s. c 57 § 16.]

28B.19.210 Short title. RCW 28B.19.010 through 28B.19.150 and 28B.19.200 shall be referred to as the State Higher Education Administrative Procedure Act. [1971 ex.s. c 57 § 20.]

28B.19.300 Negotiations by academic personnel—Community college districts, state higher education administrative procedure act not to affect. See RCW 28B.52.100.

Chapter 28B.20 UNIVERSITY OF WASHINGTON

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MISCELLANEOUS

28B.20.010 Designation. The state university located and established in Seattle, King county, shall be designated the University of Washington. [1969 ex.s. c 223 § 28B.20.010. Prior: 1909 c 97 p 238 § 1; RRS § 4544; prior: 1897 c 118 § 182; 1890 p 395 § 1. Formerly RCW 28.77.010.]

28B.20.020 Purpose. The aim and purpose of the University of Washington shall be to provide a liberal education in literature, science, art, law, medicine, military science and such other fields as may be established therein from time to time by the board of regents or by law. [1969 ex.s. c 223 § 28B.20.020. Prior: 1909 c 97 p 238 § 2; RRS § 4545; prior: 1897 c 118 § 183; 1893 c 122 § 6; 1890 p 395 § 2. Formerly RCW 28.77.020.]

28B.20.055 "Major line" defined. See RCW 28B.10.100.

28B.20.057 Major lines common to University of Washington and Washington State University. See RCW 28B.10.115.

28B.20.060 Courses exclusive to University of Washington. The courses of instruction of the University of Washington shall embrace as exclusive major lines, law, medicine, forest products, logging engineering, commerce, journalism, library economy, marine and aeronautic engineering, and fisheries. [1969 ex.s. c 223 § 28B.20.060. Prior: 1963 c 23 § 1; 1961 c 71 § 1; prior: (i) 1917 c 10 § 2; RRS § 4533. (ii) 1917 c 10 § 5; RRS § 4536. Formerly RCW 28.77.025; 28.76.060.]

28B.20.095 University fees. See chapter 28B.15 RCW.

28B.20.100 Regents—Appointment—Terms—Vacancies—Quorum. The government of the University of Washington shall be vested in a board of regents to consist of seven members who shall be appointed by the governor of the state, by and with the advice and consent of the senate, and who shall hold their offices respectively for a term of six years from the second Monday in March next succeeding their appointment and until their successors shall be appointed and shall qualify by filing their oath with the secretary of state. Four members of said board shall constitute a quorum for the transaction of business. Whenever there shall be a vacancy in the said board of regents, from any cause whatever, it shall be the duty of the governor to fill such office by appointment for the unexpired term of the incumbent whose position has become vacant. [1973 c 62 § 7; 1969 ex.s. c 223 § 28B.20.100. Prior: 1909 c 97 p 239 § 3; RRS § 4554; prior: 1897 c 118 § 184; 1895 c 101 § 1; 1890 p 396 § 3. Formerly RCW 28.77.090, 28.77.100, part.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.20.105 Regents—Organization and conduct of business—Bylaws, rules and regulations—Meetings. The board shall organize by electing from its membership a president and an executive committee, of which committee the president shall be ex officio chairman. The board may adopt bylaws or rules and regulations for its own government. The board shall hold regular quarterly meetings, and during the interim between such meetings the executive committee may transact business for the whole board: *Provided*, That the executive committee may call special meetings of the whole board when such action is deemed necessary. [1969 ex.s. c 223 § 28B.20.105. Prior: (i) 1909 c 97 p 240 § 4; RRS § 4555; prior: 1897 c 118 § 185. Formerly RCW 28.77.100. (ii) 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part. Formerly RCW 28.77.130, part.]

28B.20.110 Regents—Secretary—Treasurer—Duties—Treasurer's bond. The board shall appoint a secretary and a treasurer who shall hold their respective offices during the pleasure of the board and carry out such respective duties as the board shall prescribe. In addition to such other duties as the board prescribes, the secretary shall record all proceedings of the board and carefully preserve the same. The treasurer

shall give bond for the faithful performance of the duties of his office in such amount as the regents may require: *Provided*, That the university shall pay the fee for such bond. [1969 ex.s. c 223 § 28B.20.110. Prior: 1890 p 396 § 6; RRS § 4556. Formerly RCW 28.77.110.]

28B.20.115 Regents—Oaths. See RCW 28B.10.520.

28B.20.116 Regents—Expenses. See RCW 28B.10.525.

28B.20.117 Regents—Attorney general as advisor. See RCW 28B.10.510.

28B.20.130 Powers and duties of regents—General. General powers and duties of the board of regents are as follows:

(1) To have full control of the university and its property of various kinds.

(2) To employ the president of the university, his assistants, members of the faculty, and employees of the institution, who except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university. Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) With the assistance of the faculty of the university, prescribe the course of study in the various colleges, schools and departments of the institution and publish the necessary catalogues thereof.

(6) Grant to students such certificates or degrees as recommended for such students by the faculty. The board, upon recommendation of the faculty, may also confer honorary degrees upon persons other than graduates of this university in recognition of their learning or devotion to literature, art or science: *Provided*, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(7) Accept such gifts, grants, conveyances, bequests and devises, whether real or personal property, or both, in trust or otherwise, for the use or benefit of the university, its colleges, schools, departments, or agencies; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests and devises. The board shall adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits and income of all gifts, grants, conveyances, bequests and devises above-mentioned, and shall make full report of

the same in the customary biennial report to the governor and members of the legislature, or more frequently if required by law: *Provided, however,* That nothing herein contained shall be construed to repeal, amend or in any way modify any of the provisions of RCW 28B.20.380.

(8) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(9) To transmit prior to the first day of January, preceding each regular session of the legislature, to the governor and members of the legislature, a printed report giving information of the receipt and expenditure of money subsequent to the last such report, furnishing an estimate of the needs of the institution, and giving such additional information as will be helpful to the state authorities in providing for the institution. [1969 ex.s. c 223 § 28B.20.130. Prior: 1939 c 176 § 1, part; 1927 c 227 § 1, part; 1909 c 97 p 240 § 5, part; RRS § 4557, part; prior: 1895 c 101 § 2, part; 1893 c 122 § 10, part; 1890 pp 396, 397, 398 §§ 7, 9, 11. Formerly RCW 28.77.130, 28.77.140.]

28B.20.134 Powers and duties of regents—Consent to sale of university granted lands. See RCW 79.01.096.

28B.20.135 Powers and duties of regents—Employment of architects, engineers, for construction of buildings and facilities. The board shall have power to employ or contract for the services of skilled architects and engineers to prepare plans and specifications, and supervise the construction of university buildings and facilities and to fix the compensation for such employees or for such services. [1969 ex.s. c 223 § 28B.20.135. Prior: 1909 c 97 p 242 § 10; RRS § 4563. Formerly RCW 28.77.133.]

28B.20.140 Powers and duties of regents—Contracts for erection of buildings or improvements. The board of regents shall enter into such contracts with one or more contractors for the erection and construction of university buildings or improvements thereto as in their judgment shall be deemed for the best interest of the university; such contract or contracts shall be let after public notice and under such regulations as shall be established by said board or as otherwise provided by law to the person or persons able to perform the same on the most advantageous terms: *Provided,* That in all cases said board shall require from contractors a good and sufficient bond for the faithful performance of the work, and the full protection of the state against mechanics' and other liens: *And provided further,* That the board shall not have the power to enter into any contract for the erection of any buildings or improvements which shall bind said board to pay out any sum of money in excess of the amount provided for said purpose. [1969 ex.s. c 223 § 28B.20.140. Prior: 1909 c 97 p 242 § 9; RRS § 4562. Formerly RCW 28.77.137.]

28B.20.145 Powers and duties of regents—Regents' spending limited by income. The board of regents are hereby prohibited from creating any debt or

in any manner encumbering the university beyond its capacity for payment thereof from the biennial income of the university for the then current biennium. [1969 ex.s. c 223 § 28B.20.145. Prior: 1890 p 399 § 20; RRS § 4566. Formerly RCW 28.77.170.]

28B.20.200 Faculty—Composition—General powers. The faculty of the University of Washington shall consist of the president of the university and the professors and the said faculty shall have charge of the immediate government of the institution under such rules as may be prescribed by the board of regents. [1969 ex.s. c 223 § 28B.20.200. Prior: 1909 c 97 p 241 § 6; RRS § 4558; prior: 1897 c 118 § 187. Formerly RCW 28.77.120.]

28B.20.250 Liability coverage of university personnel and students—Authorized—Scope. The board of regents of the University of Washington, subject to such conditions and limitations and to the extent it may prescribe, is authorized to provide by purchase of insurance, by self-insurance, or by any combination of arrangements, indemnification of regents, officers, employees, agents, and students from liability on any action, claim, or proceeding instituted against them arising out of the performance or failure of performance, of duties for or employment with the university, or of responsibilities imposed by approved programs of the university, and to hold such persons harmless from any expenses connected with the defense, settlement, or payment of monetary judgments from such action, claim, or proceeding. [1975-'76 2nd ex.s. c 12 § 1.]

28B.20.253 Liability coverage of university personnel and students—Self-insurance revolving fund—Created, contents, use. (1) A self-insurance revolving fund in the custody of the treasurer is hereby created to be used solely and exclusively by the board of regents of the University of Washington for the following purposes:

(a) The payment of judgments against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250.

(b) The payment of claims against the university, its schools, colleges, departments, and hospitals and against its regents, officers, employees, agents, and students for whom the defense of an action, claim, or proceeding has been provided pursuant to RCW 28B.20.250: *Provided,* That payment of claims in excess of twenty-five hundred dollars must be approved by the state attorney general.

(c) For the cost of investigation, administration, and defense of actions, claims, or proceedings, and other purposes essential to its liability program.

(2) Said self-insurance revolving fund shall consist of periodic payments by the University of Washington from any source available to it in such amounts as are deemed reasonably necessary to maintain the fund at levels adequate to provide for the anticipated cost of payments of incurred claims and other costs to be charged against the fund.

(3) No money shall be paid from the self-insurance revolving fund unless first approved by the board of regents, and unless all proceeds available to the claimant from any valid and collectible liability insurance shall have been exhausted. [1975-'76 2nd ex.s. c 12 § 2.]

28B.20.255 Liability coverage of university personnel and students—As exclusive authority. RCW 28B.20.250 through 28B.20.255 constitutes the exclusive authority for the board of regents of the University of Washington to provide liability coverage for its regents, officers, employees, agents, and students, and further provides the means for defending and payment of all such actions, claims, or proceedings. RCW 28B.20.250 through 28B.20.255 shall govern notwithstanding the provisions of chapter 4.92 RCW and RCW 28B.10.842 and 28B.10.844. [1975-'76 2nd ex.s. c 12 § 3.]

28B.20.300 Schools of medicine, dentistry, and related health services—Authorization. The board of regents of the University of Washington is hereby authorized and directed forthwith to establish, operate and maintain schools of medicine, dentistry, and related health sciences at the university. [1969 ex.s. c 223 § 28B.20.300. Prior: 1945 c 15 § 1; Rem. Supp. 1945 § 4566-5. Formerly RCW 28.77.200.]

Autopsy of deceased infant under three years, delivery of body to University of Washington medical school for purposes of, costs: RCW 68.08.100, 68.08.104.

Requisites for accreditation and approval of medical schools: RCW 18.71.055.

28B.20.305 Schools of medicine, dentistry, and related health services—Purpose. The aim and purpose of the schools of medicine, dentistry and related health sciences shall be to provide for students of both sexes, on equal terms, all and every type of instruction in the various branches of medicine, dentistry, and related health sciences and to grant such degrees as are commonly granted by similar institutions. [1969 ex.s. c 223 § 28B.20.305. Prior: 1945 c 15 § 2; Rem. Supp. 1945 § 4566-6. Formerly RCW 28.77.210.]

28B.20.315 Drug testing laboratory—Service—Employees as expert witnesses, traveling expenses and per diem. The University of Washington is authorized and directed to arrange for a drug testing laboratory. The laboratory shall offer a testing service for law enforcement officers for the identification of known or suspected dangerous and narcotic drugs. Employees of the laboratory are authorized to appear as expert witnesses in criminal trials held within the state: *Provided*, That the traveling expenses and per diem of such employees shall be borne by the party for the benefit of whom the testimony of such employees is requested. [1969 ex.s. c 266 § 1. Formerly RCW 28.77.215.]

28B.20.320 Marine biological preserve—Established and described. There is hereby created an area of preserve of marine biological materials useful for scientific purposes, except when gathered for human food, and except, also, the plant nereocystis, commonly called "kelp." Said area of preserve shall consist of the salt

waters and the beds and shores of the islands constituting San Juan county and of Cypress Island in Skagit county. [1969 ex.s. c 223 § 28B.20.320. Prior: 1923 c 74 § 1; RRS § 8436-1. Formerly RCW 28.77.230.]

28B.20.322 Marine biological preserve—Gathering permit. No person shall gather said marine biological materials from said area of preserve, except upon permission first granted by the director of the Friday Harbor Laboratories of the University of Washington. [1969 ex.s. c 223 § 28B.20.322. Prior: 1923 c 74 § 2; RRS § 8436-2. Formerly RCW 28.77.231, 28.77.230, part.]

28B.20.324 Marine biological preserve—Penalty for unlawful gathering. Any person gathering said marine biological materials contrary to the terms of RCW 28B.20.320 and 28B.20.322 shall be guilty of a misdemeanor. [1969 ex.s. c 223 § 28B.20.324. Prior: 1923 c 74 § 3; RRS § 8436-3. Formerly RCW 28.77.232, 28.77.230, part.]

28B.20.328 Lease of lands with outdoor recreation potential—Restrictions—Unlawful to use posted lands. (1) Any lease of public lands with outdoor recreation potential authorized by the regents of the University of Washington shall be open and available to the public for compatible recreational use unless the regents of the University of Washington determine that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a university program. Any lessee may file an application with the regents of the University of Washington to close the leased land to any public use. The regents shall cause a written notice of the impending closure to be posted in a conspicuous place in the university's business office and in the office of the county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the regents that posting is not necessary, the lessee shall desist from posting. Upon a determination by the regents that posting is necessary, the lessee shall post his leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his immediate family to use any such posted lands for recreational purposes.

(2) The regents of the University of Washington may insert the provisions of subsection (1) of this section in all leases hereafter issued. [1969 ex.s. c 46 § 3. Formerly RCW 28.77.235.]

28B.20.330 Rights-of-way to railroads and street car railways—Conditions. Any railroad company now having in operation a line of railroad, or branches, sidings, or spurs thereof, upon any property in this state in use by the University of Washington for university purposes, or as a part of the grounds set aside or devoted to

university purposes, may have such right-of-way confirmed to it, its successors and assigns, upon the following terms and conditions: Such railroad company shall file with the board of regents of said university a plat showing the right-of-way desired, and shall file a duplicate thereof with the commissioner of public lands; and any railroad company or street car company desiring hereafter to construct a railroad or street car line, or extensions thereof, with branches, sidings, or spurs, upon any property in this state in use by the University of Washington for university purposes, or as a part of the ground set aside or devoted to university purposes, may have such right-of-way confirmed to it, its successors and assigns, upon the following terms and conditions: Such railroad company or street car company shall file with the board of regents of said university a plat showing the right-of-way desired, and shall file a duplicate thereof with the commissioner of public lands. [1969 ex.s. c 223 § 28B.20.330. Prior: 1909 c 248 § 1; RRS § 8095. Formerly RCW 28.77.240.]

28B.20.332 Rights-of-way to railroads and street car railways—Regents to make agreement. The board of regents of said University of Washington are authorized, upon the filing of such plat with it, to agree in writing with any such railroad company or street car company, upon the boundaries and the extent of such right-of-way, the manner in which the same shall be maintained and fenced and occupied, and prescribe the number, character, and maintenance of crossings, crossovers, and subways, and as to what sum said railroad company or street car company shall pay for the right-of-way granted. [1969 ex.s. c 223 § 28B.20.332. Prior: 1909 c 248 § 2; RRS § 8096. Formerly RCW 28.77.250.]

28B.20.334 Rights-of-way to railroads and street car railways—Form of deed—Certified copy filed. If such agreement is entered into, said board of regents shall transmit a certified copy thereof to the commissioner of public lands, who shall, after the full amount of money provided in such agreement shall be paid by said railroad company or street car company to the state treasurer, issue to such railroad company or street car company, in the name of the state of Washington, a deed for the right-of-way described in such agreement, which said deed shall recite and be subject to all the terms and conditions of such agreement, and certified copies of said deed shall be filed, one in the office of the commissioner of public lands, and the other with the secretary of said board of regents. [1969 ex.s. c 223 § 28B.20.334. Prior: 1909 c 248 § 3; RRS § 8097. Formerly RCW 28.77.260.]

28B.20.336 Rights-of-way to railroads and street car railways—Deed conveys conditional easement. The conveyance herein provided for shall not be deemed to convey the fee to the land described, but an easement only thereover and for railroad or street car purposes only, and when the right-of-way granted as aforesaid shall not be used for the purposes for which it was granted, then and thereupon the easement right shall

immediately become void. [1969 ex.s. c 223 § 28B.20.336. Prior: 1909 c 248 § 4; RRS § 8098. Formerly RCW 28.77.270.]

28B.20.340 University site dedicated for street and boulevard purposes—Description. There is hereby dedicated to the public for street and boulevard purposes the following described lands situated in section 16, township 25 north, range 4 east, W.M., and blocks 7 and 8 of Lake Washington shore lands, to wit: Beginning at the one-quarter (1/4) corner on the north line of said section sixteen (16); thence east along the north line thereof, a distance of three hundred forty-nine and thirty-four one-hundredths (349.34) feet; thence south at right angles to the said north line, a distance of thirty-five feet to the point of beginning of this description; thence south eighty-nine degrees fifty-seven minutes and forty-three seconds (89°57'43") east a distance of six hundred seventy-three and seventeen one-hundredths (673.17) feet; thence southwesterly along the arc of a curve to the left, having a uniform radius of one thousand (1,000) feet, said curve being tangent to the last above described line, a distance of one thousand three hundred seventy-three and six one-hundredths (1,373.06) feet to a point of tangency; thence south eleven degrees twenty-two minutes and two seconds (11°22'02") west, a distance of five hundred fifty-six and twenty-two one-hundredths (556.22) feet to a point of tangency on the easterly margin of Montlake Boulevard as laid off and established by Ordinance No. 26332; thence along said easterly margin northerly along the arc of a curve to the left, having a uniform radius of four hundred sixty (460) feet, a distance of one hundred forty-three and forty-one one-hundredths (143.41) feet to a point of a reverse curve; thence northerly along the arc of a curve to the right having a uniform radius of four hundred sixty (460) feet, a distance of one hundred twenty and ninety-four one-hundredths (120.94) feet to a point of reverse curve; thence northerly along the arc of a curve to the left, having a uniform radius of two thousand nine hundred seventy-four and ninety-three one-hundredths (2,974.93) feet, a distance of two hundred eighty-four (284) feet; thence departing from said easterly margin north eleven degrees twenty-two minutes and two seconds (11°22'02") east, a distance of fourteen and seventy-four one-hundredths (14.74) feet to the beginning of a curve to the right, having a uniform radius of one thousand seventy (1,070) feet; thence northeasterly along the arc of said curve, a distance of seven hundred ninety-six and thirty-three one-hundredths (796.33) feet to a point of reverse curve; thence northeasterly, northerly and northwesterly along the arc of a curve to the left, having a uniform radius of seventy-four and forty-six one-hundredths (74.46) feet, a distance of one hundred eighty-seven and ten one-hundredths (187.10) feet to the point of beginning.

Also the following described lands, to wit: Beginning at a point on the east line of said section, said point being distant nine hundred eighty-nine and sixty one-hundredths (989.60) feet south from the northeast corner of said section; thence south along said east line a distance of four hundred seventy-nine and fifty-three

one-hundredths (479.53) feet to a point on the government meander line along the shore of Lake Washington; thence along said meander line south seventy-eight degrees thirteen minutes thirty-three seconds (78°13'33") west, a distance of sixty-six and fifty one-hundredths (66.50) feet; thence north twenty-nine degrees forty-six minutes twenty-seven seconds (29°46'27") west, a distance of one hundred sixty-six and ninety-two one-hundredths (166.92) feet; thence departing from said meander line north no degrees fifty-three minutes seven seconds (0°53'07") east, a distance of three hundred fifty-four and sixty-three one-hundredths (354.63) feet; thence northwesterly along the arc of a curve to the right having a uniform radius of one hundred eighty-five (185) feet, a distance of twenty-two and two one-hundredths (22.02) feet to a point of tangency on a line which bears north twenty-nine degrees six minutes fifty-three seconds (29°06'53") west; thence northwesterly along said line, a distance of nine hundred eighteen and sixty-five one-hundredths (918.65) feet to the beginning of a curve to the left, having a uniform radius of two hundred fifty (250) feet; thence northwesterly along the arc of said curve, a distance of two hundred sixty-five and fifty one-hundredths (265.50) feet to a point of tangency on the south margin of East Forty-fifth Street; thence east along said south margin, a distance of three hundred twenty-nine and fourteen one-hundredths (329.14) feet to a point which is distant five hundred ten and seventy-nine one-hundredths (510.79) feet west from the east line of said section sixteen (16); thence southwesterly, southerly and southeasterly along the arc of a curve to the left having a uniform radius of sixty (60) feet a distance of one hundred twenty-four and seventy-eight one-hundredths (124.78) feet to a point of tangency; thence south twenty-nine degrees six minutes fifty-three seconds (29°06'53") east, a distance of nine hundred twenty-four and twenty-four one-hundredths (924.24) feet to the beginning of a curve to the left having a uniform radius of one hundred fifteen (115) feet; thence southeasterly along the arc of said curve, a distance of one hundred twenty and fifty-one one-hundredths (120.51) feet to the point of beginning. [1969 ex.s. c 223 § 28B.20.340. Prior: 1913 c 24 § 1. Formerly RCW 28.77.280.]

28B.20.342 University site dedicated for street and boulevard purposes—Local assessments barred against site. No assessments for the opening, improvement or maintenance of any public street upon the tracts of land described in RCW 28B.20.340 shall ever be levied, assessed or collected upon any portion of section 16, township 25 north, range 4 east, W.M., or upon any portion of blocks 7 and 8 Lake Washington shorelands. [1969 ex.s. c 223 § 28B.20.342. Prior: 1913 c 24 § 2. Formerly RCW 28.77.290.]

28B.20.344 University site dedicated for street and boulevard purposes—Eminent domain may not be exercised against site. The power of eminent domain of any municipal or other corporation whatever is hereby declared not to extend to any portion of said section 16,

township 25 north, range 4 east, W.M., and blocks 7 and 8 of Lake Washington shorelands. [1969 ex.s. c 223 § 28B.20.344. Prior: 1913 c 24 § 3. Formerly RCW 28.77.300.]

28B.20.350 1947 conveyance for arboretum and botanical garden purposes—Description. There is hereby granted to the University of Washington the following described land, to wit:

Lots two (2) and three (3), Block eleven-A (11-A) of the supplemental map of Lake Washington shorelands, filed September 5, 1916 in the office of the commissioner of public lands, to be used for arboretum and botanical garden purposes and for no other purposes, except as provided in RCW 28B.20.354. [1969 ex.s. c 223 § 28B.20.350. Prior: 1947 c 45 § 1. Formerly RCW 28.77.310.]

28B.20.352 1947 conveyance for arboretum and botanical garden purposes—Deed of conveyance. The commissioner of public lands is hereby authorized and directed to certify the lands described in RCW 28B.20.350 to the governor, and the governor is hereby authorized and directed to execute, and the secretary of state to attest, a deed of said shorelands to the university. [1969 ex.s. c 223 § 28B.20.352. Prior: 1947 c 45 § 2. Formerly RCW 28.77.315.]

28B.20.354 1947 conveyance for arboretum and botanical garden purposes—Part may be conveyed by regents to city of Seattle. (1) The board of regents of the University of Washington is hereby authorized to convey to the city of Seattle that portion of said lot three (3) of the shorelands described in RCW 28B.20.350 which is within the following described tract, to wit:

A rectangular tract of land one hundred twenty (120) feet in north-south width, and four hundred (400) feet in east-west length, with the north boundary coincident with the north boundary of the old canal right of way, and the west boundary on the southerly extension of the west line of Lot eleven (11), Block four (4), Montlake Park, according to the recorded plat thereof, approximately five hundred sixty (560) feet east of the east line of Montlake Boulevard.

(2) The board of regents is authorized to convey to the city of Seattle free of all restrictions or limitations, or to incorporate in the conveyance to the city of Seattle such provisions for reverter of said land to the university as the board deems appropriate. Should any portion of the land so conveyed to the city of Seattle again vest in the university by reason of the operation of any provisions incorporated by the board in the conveyance to the city of Seattle, the University of Washington shall hold such reverted portion subject to the reverter provisions of RCW 28B.20.356. [1969 ex.s. c 223 § 28B.20.354. Prior: 1947 c 45 § 3. Formerly RCW 28.77.320.]

28B.20.356 1947 conveyance for arboretum and botanical garden purposes—Reversion for unauthorized use—Reconveyance for highway purposes. In case the University of Washington should attempt to use or permit the use of such shorelands or any portion thereof for

any other purpose than for arboretum and botanical garden purposes, except as provided in RCW 28B.20.354, the same shall forthwith revert to the state of Washington without suit, action or any proceedings whatsoever or the judgment of any court forfeiting the same: *Provided*, That the board of regents of the University of Washington is hereby authorized and directed to reconvey to the state of Washington block eleven-A (11-A) of the supplemental map of Lake Washington shorelands, filed September 5, 1916 in the office of the commissioner of public lands, or such portion thereof as may be required by the state of Washington or any agency thereof for state highway purposes. The state of Washington or any agency thereof requiring said land shall pay to the University of Washington the fair market value thereof and such moneys paid shall be used solely for arboretum purposes. Such reconveyance shall be made at such time as the state or such agency has agreed to pay the same. [1969 ex.s. c 223 § 28B.20.356. Prior: 1959 c 164 § 2; 1947 c 45 § 4; No RRS. Formerly RCW 28.77.330.]

28B.20.360 1939 conveyance of shorelands to university—Description. The commissioner of public lands of the state of Washington is hereby authorized and directed to certify in the manner now provided by law to the governor for deeding to the University of Washington all of the following described Lake Washington shorelands, to wit: Blocks sixteen (16) and seventeen (17), Lake Washington Shorelands, as shown on the map of said shorelands on file in the office of the commissioner of public lands. [1969 ex.s. c 223 § 28B.20.360. Prior: 1939 c 60 § 1; No RRS. Formerly RCW 28.77.333.]

28B.20.362 1939 conveyance of shorelands to university—Deed of conveyance. The governor is hereby authorized and directed to execute, and the secretary of state to attest, a deed conveying to the University of Washington all of said shorelands. [1969 ex.s. c 223 § 28B.20.362. Prior: 1939 c 60 § 2; No RRS. Formerly RCW 28.77.335.]

28B.20.364 1939 conveyance of shorelands to university—Grant for arboretum and botanical garden purposes—Reversion for unauthorized use—Reconveyance for highway purposes. All of the shorelands described in RCW 28B.20.360 are hereby granted to the University of Washington to be used for arboretum and botanical garden purposes and for no other purposes. In case the said University of Washington should attempt to use or permit the use of said shorelands or any portion thereof for any other purpose, the same shall forthwith revert to the state of Washington without suit, action or any proceedings whatsoever or the judgment of any court forfeiting the same: *Provided*, That the board of regents of the University of Washington is hereby authorized and directed to reconvey to the state of Washington blocks 16 and 17 of Lake Washington shorelands, or such portions thereof as may be required by the state of Washington or any agency thereof for state highway purposes. The state of

Washington or any agency thereof requiring said land shall pay to the University of Washington the fair market value thereof and such moneys paid shall be used solely for arboretum purposes. Such reconveyance shall be made at such time as the state or such agency has agreed to pay the same. [1969 ex.s. c 223 § 28B.20.364. Prior: 1959 c 164 § 1; 1939 c 60 § 3; No RRS. Formerly RCW 28.77.337.]

28B.20.370 Transfer of certain Lake Union shorelands to university. Block 18-A, Second Supplemental Maps of Lake Union Shore Lands, as shown on the official maps thereof on file in the office of the commissioner of public lands, is hereby transferred to the University of Washington and shall be held and used for university purposes only. [1969 ex.s. c 223 § 28B.20.370. Prior: 1963 c 71 § 1. Formerly RCW 28.77.339.]

28B.20.382 Old university grounds or metropolitan tract, conditions for sale, lease or lease renewal. Until authorized and empowered to do so by statute of the legislature, the board of regents of the university, with respect to that certain tract of land in the city of Seattle originally known as the "old university grounds" and more recently known as the "Metropolitan Tract" and any land contiguous thereto, shall not sell said land or any part thereof or any improvement thereon, or lease said land or any part thereof or any improvement thereon or renew or extend any lease thereof for a term ending more than sixty years beyond midnight, July 23, 1974. Any sale of said land or any part thereof or any improvement thereon, or any lease or renewal or extension of any lease of said land or any part thereof or any improvement thereon for a term ending more than sixty years after midnight, July 23, 1974, made or attempted to be made by the board of regents shall be null and void unless and until the same has been approved or ratified and confirmed by legislative act.

The board of regents shall have power from time to time to lease said land, or any part thereof or any improvement thereon for a term ending not more than sixty years beyond midnight, July 23, 1974: *Provided*, That the board of regents shall make a full, detailed report of all leases and transactions pertaining to said land or any part thereof or any improvement thereon to each regular session of the legislature. [1974 ex.s. c 174 § 1.]

28B.20.390 Additional powers of regents as to old university grounds—Definitions. For the purposes of RCW 28B.20.392, 28B.20.396 and 28B.20.398—(1) the word "board" means the board of regents of the University of Washington;

(2) the word "leasehold" and the term "leasehold interest" mean the interest of the lessee in the university tract under the lease entered into on the first day of February, 1907, between the state of Washington, as lessor, and James A. Moore, as lessee, and thereafter assigned by said lessee to the Metropolitan Building Company, a corporation;

(3) the verb "to lease" includes the power to let for a term the whole or any portions of the land or of any

building or buildings or other improvements thereon or appurtenances thereto, at rentals determined upon the basis of either—

(a) an agreed amount either with or without provision for periodic adjustment therein for the term, or

(b) a percentage of sales, receipts or income for the term, or

(c) a percentage of sales, receipts or income with a guaranteed minimum rental for the term, either with or without duty on the part of the lessee or lessor to construct new buildings or other improvements or to reconstruct, alter, remodel or add to existing buildings; and

(4) the term "university tract" means the tract of land in the city of Seattle, consisting of approximately ten acres, originally known as the "old university grounds" and more recently referred to as the "Metropolitan tract", together with all buildings, improvements and facilities thereon and appurtenances thereto. [1969 ex.s. c 223 § 28B.20.390. Prior: 1947 c 284 § 1; Rem. Supp. 1947 § 4566-11. Formerly RCW 28.77.350.]

28B.20.392 Additional powers of regents as to old university grounds—Enumeration of. In addition to the powers conferred under the deeds of conveyance and under existing law the board is authorized, and shall have the power subject to RCW 28B.20.380,—

(1) to acquire by purchase, to sublease or to otherwise acquire, from the lessees of the university tract the unexpired portion of the leasehold interest in said tract prior to the date of its stipulated expiration and to pay, or make provision for payment, to the holder of the leasehold such amount as may be agreed upon between the board and the holder of such leasehold interest, and

(2) upon and after either such acquisition or the expiration of the leasehold—

(a) to operate and manage or lease, in whole or in part, the university tract, such operation and management or leasing to be accomplished, at the discretion of the board, either—

(i) directly by the board, or

(ii) through an agent or agents appointed for that purpose, or

(iii) through the medium of a corporation or corporations created for that purpose; and

(b) either directly or by contract, at fixed price or upon cost-plus-a-fixed-fee basis,—

(i) to construct new buildings on, or

(ii) to raze, reconstruct, alter, remodel or add to existing buildings on, or

(iii) to otherwise improve, the university tract, and to lease or to acquire, by purchase or gift, land and rights necessary or convenient for the maximum utilization and development of the said tract; and

(3) if the unexpired portion of the leasehold interest in the university tract is not acquired prior to the date of its stipulated expiration, in the meantime—

(a) to enter into agreements to lease the university tract, in whole or in part, for any period beginning on or after November 1, 1954, either with or without concurrent action by the holder of the unexpired portion of the leasehold interest in said tract; and

(b) to exercise any of the powers enumerated in subdivision (2)(b) of this section, upon agreement with the holder of the unexpired portion of the leasehold interest in the university tract for its improvement prior to the expiration of such leasehold term; and

(4) to borrow money required for the accomplishment of any object or purpose specified in subdivisions (1), (2) or (3) of this section and to issue warrants or bonds therefor, to provide for amortization thereof and to pay said warrants or bonds, at or prior to maturity, out of the income derived from operating, managing and leasing the university tract; and

(5) (a) to receive all rental and other income from the university tract, and

(b) to designate depositaries thereof, and

(c) to hold and invest and to pay or discharge out of the same (i) all expenses of operation, management, maintenance, repair and upkeep of said tract and (ii) any obligations incurred in conformity with the powers granted under the provisions of subdivision (4) of this section; and

(d) to apply the net proceeds therefrom to the use of the University of Washington: *Provided*, That until the acquisition or expiration of the leasehold interest in the said tract the rental therefrom shall be applied as provided in RCW 43.79.090. [1969 ex.s. c 223 § 28B.20.392. Prior: 1947 c 284 § 2; Rem. Supp. 1947 § 4566-12. Formerly RCW 28.77.360.]

28B.20.394 Additional powers of regents as to old university grounds—Agreements to pay city and county for governmental services. In addition to the powers conferred upon the board of regents of the University of Washington by RCW 28B.20.392 and 28B.20.380, said board is authorized and shall have the power to enter into an agreement or agreements with the city of Seattle and the county of King, Washington, to pay to said city and said county such sums as shall be mutually agreed upon for governmental services rendered to said university tract, as defined in RCW 28B.20.390 which sums shall not exceed the amounts that would be received pursuant to limitations imposed by RCW 84.52.043 by the said city of Seattle and county of King respectively from real and personal property taxes paid on the university tract or any leaseholds thereon if such taxes could lawfully be levied; and any such sums so agreed upon shall be paid from the proceeds and other income from said tract as an item of expense of operation and upkeep thereof: *Provided*, That in the event that it is determined by a court of final jurisdiction that the provisions of chapter 43, Laws of 1971 first ex. sess., insofar as they affect taxes due and payable in 1972 and 1973 by any lessee of the university tract, are held unconstitutional, the sums paid pursuant to this section in such years shall be refunded in accordance with the provisions of chapter 84.69 RCW; and any provision of RCW 28B.20.392 in conflict herewith is superseded. [1973 1st ex.s. c 195 § 10; 1972 ex.s. c 107 § 1; 1969 ex.s. c 223 § 28B.20.394. See also 1973 1st ex.s. c 195 § 140. Prior: 1955 c 229 § 1. Formerly RCW 28.77.361.]

Reviser's note: Chapter 43, Laws of 1971 ex.s. consists of RCW 84.40.030, the 1971 ex.s. severability section footnoted thereto, RCW 84.40A.020, 84.40A.030, 84.40A.040 and 84.40A.050.

Severability—Effective dates and termination dates—Construction—1973 1st ex.s. c 195: See notes following RCW 84.52.043.

28B.20.396 Additional powers of regents as to old university grounds—Bonds may be issued—Form, terms, etc. Bonds issued pursuant to the authority granted under subdivision (4) of RCW 28B.20.392—

(1) shall not constitute (a) an obligation, either general or special, of the state or (b) a general obligation of the University of Washington or of the board;

(2) shall be—

(a) either registered or in coupon form, and

(b) issued in denominations of not less than one hundred dollars;

(3) shall state—

(a) the date of issue, and

(b) the series of the issue and be consecutively numbered within the series, and

(c) that the bond is payable only out of a special fund established for the purpose, and designate the fund;

(4) shall bear interest, payable either annually, or semiannually as the board may determine;

(5) shall be payable solely out of—

(a) revenue derived from operating, managing and leasing the university tract, and

(b) a special fund, created by the board for the purpose, consisting either of (i) a fixed proportion, or (ii) a fixed amount out of and not exceeding a fixed proportion, or (iii) a fixed amount without regard to any fixed proportion, of the revenue so derived;

(6) may contain covenants by the board in conformity with the provisions of RCW 28B.20.398(2);

(7) shall be payable at such times over a period of not to exceed thirty years, in such manner and at such place or places as the board determines;

(8) shall be executed in such manner as the board by resolution determines;

(9) shall be sold in such manner as the board deems for the best interest of the University of Washington. [1970 ex.s. c 56 § 25; 1969 ex.s. c 232 § 99; 1969 ex.s. c 223 § 28B.20.396. Prior: 1947 c 284 § 3; Rem. Supp. 1947 § 4566-13. Formerly RCW 28.77.370.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.20.398 Additional powers of regents as to old university grounds—Covenants of bonds—Special fund—Contractual nature of law—Redemption—Action to compel payment into fund—Temporary bonds. (1) Any resolution of the board pursuant to the provisions of subdivision (4) of RCW 28B.20.392 shall provide for the creation of a special fund, in conformity with the provisions of subdivision (5)(b) of RCW 28B.20.396.

(2) Any resolution authorizing the issuance of bonds pursuant to the provisions of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 may contain covenants of the board to protect and safeguard the security and

rights of the holders of any such bonds such as are then customary in connection with similar bonds and considered advisable in order to assure the maximum marketability for said bonds. Without limiting the generality of the foregoing, any such resolution may contain covenants as to—

(a) the creation of a special fund into which the proceeds of all bonds issued pursuant to the provisions of such resolution shall be deposited, the terms and conditions upon which payments may be made from such special fund, and for the payment of interest on bonds issued pursuant to such resolution from the moneys in said fund;

(b) maintaining rental and leasehold rates and other charges at a level sufficient at all times to provide revenue (i) to pay the interest on and principal of all bonds and other obligations payable from said revenue, (ii) to make all other payments from said revenues required under the provisions of any resolution adopted in connection with the issuance of warrants or bonds under RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 and (iii) to pay the operating, management, maintenance, repair and upkeep costs of the university tract;

(c) collection, deposit, custody and disbursement of the revenues from the university tract or any portions thereof including (i) a specification of the depositaries to be designated, and (ii) authorization of such depositaries, or other banks or trust companies, to act as fiscal agent of the board for the custody of the proceeds of bonds and the moneys held in any funds created pursuant to RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398, or any resolution authorizing such bonds, and to represent bondholders in the event of a default on such bonds or in the event of a default in the performance of any duty or obligation of the board in connection therewith, with such power and duty as such resolution may provide;

(d) creation and administration of reserve and other funds for the payment, at or prior to maturity, of any indebtedness chargeable against the revenues from the university tract and for creation of working funds, depreciation funds, replacement funds, reserves for extraordinary repairs and any other fund deemed necessary or desirable to insure the continued profitable operation of the said university tract;

(e) deposit of collateral security or indemnity bonds to secure the proceeds (i) of bonds issued pursuant to the provisions of such resolution and (ii) of all revenues which are pledged to secure the repayment of bonds issued pursuant to the provisions of such resolution and (iii) of all moneys deposited in any special fund created under the authority of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 or any covenant thereunder;

(f) the obligation of the board to maintain the building or buildings in good condition and to operate and manage the same in an economical and efficient manner;

(g) the amount and kind of insurance to be carried by the board in connection with the building or buildings, the companies in which such insurance shall be carried, the term thereof, the application of the proceeds of any such insurance, and adjustments of losses under any such policy of insurance;

(h) limitations upon the amount of additional bonds, warrants and other obligations payable out of the revenues from the building or buildings which may be thereafter issued and the terms and conditions upon which such additional bonds, warrants or other obligations may be issued;

(i) limitations upon the creation of additional liens or encumbrances on the building or buildings or the personal property used in connection therewith;

(j) the terms and conditions upon which the building or buildings, or any part thereof, may be sold, mortgaged, leased or otherwise disposed of, and the use or other disposition of the proceeds of any such sale, mortgage or lease;

(k) the methods of operation, management and maintenance of the building or buildings;

(l) accounting and auditing and the keeping of records, reports and audits with respect to the building or buildings;

(m) the amendment or modification of any resolution authorizing the issuance of bonds pursuant to the provisions of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398, including the terms and conditions upon which such amendment or modification may be effected and the number, amount or percentage of assenting bonds necessary to effectuate the same;

(n) limitations upon the use of space or facilities in the building or buildings without payment therefor; and

(o) such other matters as may be necessary or desirable to insure a successful and profitable operation of the building or buildings.

(3) The term "building or buildings" as used in subdivision (2) of this section means the building or buildings or improvements upon the university tract with respect to which the revenues are pledged, under the terms of the resolution, to secure the payment of bonds issued under such resolution.

(4) The provisions of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 and of any resolution adopted in conformity with the provisions of this section shall constitute a contract with the holders of warrants or bonds issued pursuant thereto, and the provisions thereof shall be enforceable in any court of competent jurisdiction by any owner or holder of such warrants or bonds by mandamus or any other appropriate suit, action or proceeding at law or in equity.

(5) Bonds issued pursuant to the provisions of RCW 28B.20.390, 28B.20.392, 28B.20.396 and 28B.20.398 may be redeemed, at the option of the board, at such time or times, upon such terms and conditions, and at such premiums as the board specifies in the resolution.

(6) If the board fails to pay the required amounts into the special fund, established in conformity with subdivision (2) of this section, the holder of any bond or bonds affected thereby may maintain an action against the board to compel compliance with the terms of the resolution in this respect.

(7) Pending the preparation and execution of any bonds the issuance of which is authorized under the provisions of subdivision (2), temporary bonds may be issued in such form as the board determines. [1969 ex.s.

c 223 § 28B.20.398. Prior: 1947 c 284 § 4; Rem. Supp. 1947 § 4566-14. Formerly RCW 28.77.380.]

SPECIAL RESEARCH PROJECTS AND HOSPITAL

28B.20.400 Institute of child development research and service—Established—Purpose. There shall be created, established and maintained at the University of Washington, a state institute of child development research and service having as its objects the best scientific methods of serving and developing the child, the dissemination of the information acquired by such investigation, and the training of students for work in such fields. [1969 ex.s. c 223 § 28B.20.400. Prior: 1937 c 181 § 1; RRS § 4566-1. Formerly RCW 28.77.180.]

28B.20.402 Institute of child development research and service—Director and advisory board. The management and control of such institute shall be vested in a director appointed by the board of regents of the University of Washington, and an advisory board of not more than seven members to be appointed by the president of the university from the faculty thereof. [1969 ex.s. c 223 § 28B.20.402. Prior: 1937 c 181 § 2; RRS § 4566-2. Formerly RCW 28.77.190.]

28B.20.410 Children's center for research and training in mental retardation—Established. There is hereby established at the University of Washington a children's center for research and training in mental retardation and other handicapping conditions. [1969 ex.s. c 223 § 28B.20.410. Prior: 1963 c 193 § 1. Formerly RCW 28.77.430.]

28B.20.412 Children's center for research and training in mental retardation—Administration—Advisory committee. The center shall be administered by the board of regents of the University of Washington with the assistance of a nonsalaried advisory committee consisting of the dean of the school of medicine of the University of Washington; the assistant secretaries for the divisions of health services, social services, service delivery, and vocational rehabilitation services of the department of social and health services; the superintendent of public instruction; and three other members approved by the president of the University of Washington. [1973 c 62 § 8; 1969 ex.s. c 223 § 28B.20.412. Prior: 1963 c 193 § 2. Formerly RCW 28.77.432.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.20.414 Children's center for research and training in mental retardation—Purpose. The general purposes of the center shall be:

(1) To provide clinical and laboratory facilities for research on the causes, diagnosis, prevention, and treatment of mental retardation and other handicapping conditions in children;

(2) To develop improved professional and in-service training programs in the various disciplines concerned with handicapped children;

(3) To provide diagnostic and consultative services to various state programs and to regional and local centers, to an extent compatible with the primary research and teaching objectives of the center. [1969 ex.s. c 223 § 28B.20.414. Prior: 1963 c 193 § 3. Formerly RCW 28.77.434.]

28B.20.420 Graduate scholarships for engineering research—Established. In order to further the development of advance studies in engineering there shall be established in the engineering laboratories of the University of Washington, ten graduate scholarships and/or fellowships to the amount of one thousand dollars and tuition each, per academic year. These scholarships shall be in the field of engineering which can best be used to aid the industrial development of the state of Washington and its resources. This graduate work shall be done in the laboratories of the university and shall be directed along the lines of professional research and testing. [1969 ex.s. c 223 § 28B.20.420. Prior: 1945 c 241 § 1. Formerly RCW 28.77.220.]

28B.20.422 Graduate scholarships for engineering research—Studies published—Direction of program—Qualifications for candidates. The studies and results of such scholarships shall be published as bulletins or engineering reports of the college of engineering of the university and a reasonable number of copies thereof shall be available to the public without cost. The provisions of RCW 28B.20.420 and this section shall include the cost of individual scholarships, the cost of necessary supplies and materials to be utilized, and the cost of printing and distribution of the bulletins or engineering reports. The direction of this research program shall rest in the proper department or departments and schools of the engineering college of the university and the candidates must meet the qualifications of the graduate school of the university for graduate students. [1969 ex.s. c 223 § 28B.20.422. Prior: 1945 c 241 § 2. Formerly RCW 28.77.225; 28.77.220, part.]

28B.20.440 University hospital. The board of regents of the University of Washington is hereby authorized to operate a hospital upon university grounds to be used in conjunction with the university's medical and dental schools, including equipping and additional construction to the same. [1969 ex.s. c 223 § 28B.20.440. Cf. (i) 1947 c 286 § 2. No RRS. (ii) 1945 c 15 § 4. No RRS.]

28B.20.450 Occupational and environmental research facility—Construction and maintenance authorized—Purpose. There shall be constructed and maintained at the University of Washington an occupational and environmental research facility in the school of medicine having as its objects and purposes testing, research, training, teaching, consulting and service in the fields of industrial and occupational medicine and health, the prevention of industrial and occupational disease among workmen, the promotion and protection of safer working environments and dissemination of the knowledge and information acquired from such objects

and purposes. [1969 ex.s. c 223 § 28B.20.450. Prior: 1963 c 151 § 1. Formerly RCW 28.77.410.]

28B.20.452 Occupational and environmental research facility—Industry to share costs. See RCW 51.16.042.

28B.20.454 Occupational and environmental research facility—Submission of industrial and occupational health problems to facility—Availability of information. Any matter or problem relating to the industrial and occupational health of workmen may be submitted to the environmental research facility by any public agency or interested party. All research data and pertinent information available or compiled at such facility related to the industrial and occupational health of workmen shall be made available and supplied without cost to any public agency or interested party. [1969 ex.s. c 223 § 28B.20.454. Prior: 1963 c 151 § 3. Formerly RCW 28.77.414.]

28B.20.456 Occupational and environmental research facility—Advisory committee. There is hereby created an advisory committee to the environmental research facility consisting of eight members. Membership on the committee shall consist of the director of the department of labor and industries, the assistant secretary for the division of health services of the department of social and health services, the president of the Washington state labor council, the president of the association of Washington business, the dean of the school of public health and community medicine of the University of Washington, the dean of the school of engineering of the University of Washington, the president of the Washington state medical association, or their representatives, and the chairman of the department of environmental health of the University of Washington, who shall be ex officio chairman of the committee without vote. Such committee shall meet at least semiannually at the call of the chairman. Members shall serve without compensation. It shall consult, review and evaluate policies, budgets, activities and programs of the facility relating to industrial and occupational health to the end that the facility will serve in the broadest sense the health of the workman as it may be related to his employment. [1973 c 62 § 9; 1969 ex.s. c 223 § 28B.20.456. Prior: 1963 c 151 § 4. Formerly RCW 28.77.416.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.20.458 Occupational and environmental research facility—Acceptance of loans, gifts, etc.—Presentment of vouchers for payments from accident and medical aid funds. The University of Washington may accept and administer loans, grants, funds, or gifts, conditional or otherwise, in furtherance of the objects and purposes of RCW 28B.20.450 through 28B.20.458, from the federal government and from other sources public or private. For the purpose of securing payment from the accident fund and medical aid fund as funds are required, vouchers shall be presented to the department of labor and industries. [1969 ex.s. c 223 § 28B.20.458. Prior: 1963 c 151 § 5. Formerly RCW 28.77.418.]

FINANCING BUILDINGS AND FACILITIES—
1957 ACT

28B.20.700 Construction, remodeling, improvement, financing, etc., authorized. The board of regents of the University of Washington is empowered, in accordance with the provisions of this chapter, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the university and to finance the payment thereof by bonds payable out of a special fund from revenues hereafter derived from the payment of general tuition fees, gifts, bequests or grants, and such additional funds as the legislature may provide. [1969 ex.s. c 223 § 28B.20.700. Prior: 1959 c 193 § 1; 1957 c 254 § 1. Formerly RCW 28.77.500.]

28B.20.705 Definitions. The following terms, whenever used or referred to in this chapter, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "board" means the board of regents of the University of Washington.

(2) The words "general tuition fees" mean the general tuition fee charged students registering at the university.

(3) The words "bond retirement fund" mean the special fund created by chapter 254, Laws of 1957, to be known as the University of Washington bond retirement fund.

(4) The word "bonds" means the bonds payable out of the bond retirement fund.

(5) The word "projects" means the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility of the university authorized by the legislature at any time and to be financed by the issuance and sale of bonds. [1969 ex.s. c 223 § 28B.20.705. Prior: 1963 c 224 § 2; 1963 c 182 § 1; 1959 c 193 § 2; 1957 c 254 § 2. Formerly RCW 28.77.510.]

28B.20.710 Contracts, issuance of evidences of indebtedness, acceptance of grants. In addition to the powers conferred under existing law, the board is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the university as are and which may hereafter be authorized by the legislature.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the revenues and receipts of the bond retirement fund.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or any public or private corporation, association, or person to aid in defraying the costs of any such projects. [1969 ex.s. c 223 § 28B.20.710. Prior: 1963 c 182 § 2; 1959 c 193 § 3; 1957 c 254 § 3. Formerly RCW 28.77.520.]

28B.20.715 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of the University of Washington or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university by the president of the board, attested by the secretary of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with this chapter, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the general tuition fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement fund, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the

principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the University of Washington building account to the bond retirement fund when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the University of Washington building account and shall be used solely for paying the costs of the projects. [1970 ex.s. c 56 § 26; 1969 ex.s. c 232 § 100; 1969 ex.s. c 223 § 28B.20.715. Prior: 1959 c 193 § 4; 1957 c 254 § 4. Formerly RCW 28.77.530.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.20.720 University of Washington bond retirement fund—Composition—Pledge of general tuition fees. For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to a special trust fund to be known as the University of Washington bond retirement fund, the following:

(1) One-half of such general tuition fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund, and in no event shall such one-half be less than twelve dollars and fifty cents per each resident student per quarter and less than thirty-seven dollars and fifty cents per each nonresident student per quarter;

(2) Any gifts, bequests, or grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof except as provided in RCW 28B.20.725(5). As a part of the contract of sale of such bonds, the board undertakes to charge and collect general tuition fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding. [1969 ex.s. c 223 § 28B.20.720. Prior: 1959 c 193 § 5; 1957 c 254 § 5. Formerly RCW 28.77.540.]

28B.20.721 Revenues derived from certain university lands deposited in University of Washington bond retirement fund. All moneys received from the lease or rental of lands set apart by the enabling act for university purposes; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel, or other valuable material thereon; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the "University of Washington bond retirement fund" to be expended for the purposes set forth in RCW 28B.20.720. [1969 ex.s. c 223 § 28B.20.721. Prior: 1963 c 216 § 1. Formerly RCW 28.77.541.]

28B.20.725 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. The board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the University of Washington building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;

(5) To authorize the transfer to the University of Washington building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on all outstanding bonds payable out of such fund. [1969 ex.s. c 223 § 28B.20.725. Prior: 1959 c 193 § 6. Formerly RCW 28.77.545.]

28B.20.730 Refunding bonds. The board is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by this chapter for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the University of Washington or the board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the university. [1970 ex.s. c 56 § 27; 1969 ex.s. c 232 § 101; 1969 ex.s. c 223 § 28B.20.730. Prior: 1959 c 193 § 8. Formerly RCW 28.77.547.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.20.735 Bonds not general obligations—Legislature may provide additional means of payment. The

bonds authorized to be issued pursuant to the provisions of RCW 28B.20.700 through 28B.20.740 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special fund created for their payment derived from the general tuition fees as herein provided. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.20.700 through 28B.20.740 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28B.20.735. Prior: 1957 c 254 § 7. Formerly RCW 28.77.550.]

28B.20.740 RCW 28B.20.700 through 28B.20.740 as concurrent with other laws. RCW 28B.20.700 through 28B.20.740 is to be construed as concurrent with other legislation with reference to providing funds for the construction of buildings at the University of Washington, and is not to be construed as limiting any other provision of law with reference thereto. [1969 ex.s. c 223 § 28B.20.740. Prior: 1957 c 254 § 10. Formerly RCW 28.77.580.]

MISCELLANEOUS

28B.20.745 Validation—1959 c 193. Any covenants of the bonds issued by the University of Washington under the authority of chapter 254, Laws of 1957 not expressly authorized by said chapter but authorized in chapter 193, Laws of 1959 are hereby declared to be legal and binding in all respects. [1969 ex.s. c 223 § 28B.20.745. Prior: 1959 c 193 § 11. Formerly RCW 28.77.590.]

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.

28B.20.770 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges. See RCW 28B.10.300 through 28B.10.330.

28B.20.800 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Covenant. All moneys hereafter received from the lease or rental of lands set apart for the University of Washington by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893, and all interest or income arising from the proceeds of the sale of such land and all proceeds from the sale of timber, fallen timber, stone, gravel, or other valuable material and all other receipts therefrom shall be deposited to the credit of the "University of Washington bond retirement fund" to be expended for the purposes set forth in RCW 28B.20.720. All proceeds of sale of such lands, exclusive of interest, shall be deposited to the credit of the state university permanent fund, shall be retained therein and shall not be transferred to any other fund or account. All interest earned or income received from the investment of the money in the state university permanent fund shall be deposited to the credit of the University of Washington bond retirement fund.

As a part of the contract of sale of bonds payable out of the University of Washington bond retirement fund, the board of regents of the University of Washington may covenant that all moneys derived from the above provided sources, which are required to be paid into the bond retirement fund, shall continue to be paid into such bond retirement fund for as long as any of such bonds are outstanding. [1969 ex.s. c 223 § 28B.20.800. Prior: 1965 ex.s. c 135 § 1. Formerly RCW 28.77.620.]

28B.20.805 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Ratification of previous transfers. The transfers heretofore made of all moneys from the sources described in RCW 28B.20.800 and 43.79.201 into the University of Washington bond retirement fund and permanent fund are in all respects ratified and confirmed. [1969 ex.s. c 223 § 28B.20.805. Prior: 1965 ex.s. c 135 § 3. Formerly RCW 28.77.630.]

28B.20.810 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—Transfers of certain funds and investments from university permanent fund to University of Washington bond retirement fund and University of Washington building account. The board of regents of the University

of Washington is empowered to authorize from time to time the transfer from the state university permanent fund to be held in reserve in the bond retirement fund created by RCW 28B.20.720 any unobligated funds and investments derived from lands set apart for the support of the university by chapter 91, Laws of 1903 and section 9, chapter 122, Laws of 1893, to the extent required to comply with bond covenants regarding principal and interest payments and reserve requirements for bonds payable out of the bond retirement fund up to a total amount of five million dollars, and to transfer any or all of said unobligated funds and investments in excess of five million dollars to the university building account created by RCW 43.79.330(22). Any funds transferred to the bond retirement fund pursuant to this section shall be replaced by moneys first available out of the moneys required to be deposited in such fund pursuant to RCW 28B.20.800. The board is further empowered to direct the state finance committee to convert any investments in such permanent fund acquired with funds derived from such lands into cash or obligations of or guaranteed by the United States of America prior to the transfer of such funds and investments to such reserve account or building account.

All interest earned on and profits derived from the sale of any investments of money in such University of Washington bond retirement fund shall be deposited in and become a part of such fund. [1969 ex.s. c 223 § 28B.20.810. Prior: 1965 ex.s. c 135 § 4. Formerly RCW 28.77.640.]

28B.20.820 Revenues derived from certain university lands and income from university permanent fund deposited in University of Washington bond retirement fund—RCW 79.64.040 not affected. Nothing contained in RCW 28B.20.800 through 28B.20.820 and RCW 43.79.201 is intended to amend or modify RCW 79.64.040 (section 4, chapter 178, Laws of 1961). [1969 ex.s. c 223 § 28B.20.820. Prior: 1965 ex.s. c 135 § 5. Formerly RCW 28.77.650.]

Chapter 28B.30 WASHINGTON STATE UNIVERSITY

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- 28B.30.010 Designation.** The state university located and established in Pullman, Whitman county, shall be designated Washington State University. [1969 ex.s. c 223 § 28B.30.010. Prior: 1959 c 77 § 1; 1905 c 53 § 1; 1891 c 145 § 1; RRS § 4567. Formerly RCW 28.80.010.]
- 28B.30.015 Purpose.** The aim and the purpose of Washington State University shall be to provide a higher education in such fields as may be established therein from time to time by the board of regents or by law, including instruction in agriculture or other industrial pursuits, mechanical arts and the natural sciences. [1969 ex.s. c 223 § 28B.30.015. Prior: 1909 c 97 p 243 § 1, part; RRS § 4568, part; prior: 1897 c 118 § 190, part; 1891 c 145 § 1, part. Formerly RCW 28.80.015; 28.76.040, part and 28.76.050, part.]
- 28B.30.055 "Major line" defined.** See RCW 28B.10.100.

28B.30.057 Major lines common to University of Washington and Washington State University. See RCW 28B.10.115.

28B.30.060 Courses exclusive to Washington State University. The courses of instruction of Washington State University shall embrace as exclusive major lines, agriculture in all its branches and subdivisions, veterinary medicine, and economic science in its application to agriculture and rural life. [1969 ex.s. c 223 § 28B.30.060. Prior: 1917 c 10 § 3; RRS § 4534. Formerly RCW 28.80.025; 28.76.070, part.]

28B.30.065 Exclusive instruction in agriculture. Work and instruction in agriculture in all its branches and subdivisions shall be offered and taught in Washington State University exclusively. [1969 ex.s. c 223 § 28B.30.065. Prior: 1917 c 10 § 6; RRS § 4537. Formerly RCW 28.80.026; 28.76.070, part.]

28B.30.075 University fees. See chapter 28B.15 RCW.

28b.30.095 Management. The management of Washington State University and its experiment stations, the care and preservation of all property of which the institution shall become possessed, the erection and construction of all buildings necessary for the use of said university and stations, and the disbursement and expenditure of all money provided for said university, shall be vested in the board of regents, constituted as provided in RCW 28B.30.100; said regents and their successors in office shall have the right to cause all things to be done necessary to carry out the provisions of this chapter or as otherwise provided by law. [1969 ex.s. c 223 § 28B.30.095. Prior: 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; Rem. Supp. 1949 § 4576, part; prior: 1897 c 118 § 194, part; 1891 c 145 § 4, part. Formerly RCW 28.80.070, part, 28.80.080, part and 28.80.130, part.]

28B.30.100 Regents—Appointment—Terms—Bond. The seven members of the board of regents of Washington State University shall be appointed by the governor, by and with the consent of the senate: *Provided*, That all appointments made to fill vacancies caused by death, resignation or otherwise, shall be for the unexpired term of the incumbent whose place shall have become vacant. Except as otherwise in this section provided, all appointments shall be for the term of six years and until the appointment and qualification by filing his oath with the secretary of state of a successor to each appointee.

Each regent shall, before entering upon the discharge of his respective duties as such, execute a good and sufficient bond to the state of Washington, with two or more sufficient sureties, residents of the state, or with a surety company licensed to do business within the state, in the penal sum of not less than five thousand dollars, conditioned for the faithful performance of his duties as such regent: *Provided*, That the university shall pay any

fees incurred for any such bonds for their board members. [1973 c 62 § 10; 1969 ex.s. c 223 § 28B.30.100. Prior: 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; Rem. Supp. 1949 § 4576, part; prior: 1897 c 118 § 194, part; 1891 c 145 § 4, part. Formerly RCW 28.80.070, part, 28.80.080, part and 28.80.130, part.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.30.105 Regents—Governor ex officio advisory member. The governor of the state shall be ex officio advisory member of the board of Washington State University regents, but shall not have the right to vote, nor be eligible to office therein. [1969 ex.s. c 223 § 28B.30.105. Prior: 1909 c 97 p 249 § 18; RRS § 4598; prior: 1897 c 118 § 207; 1891 p 340 § 22. Formerly RCW 28.80.085; 28.80.090, part.]

28B.30.115 Regents—Oaths. See RCW 28B.10.520.

28B.30.116 Regents—Expenses. See RCW 28B.10.525.

28B.30.117 Regents—Attorney general as advisor. See RCW 28B.10.510.

28B.30.120 Regents—Meetings—Quorum—Vacancy not to affect rights of remaining members. Meetings of the board of regents may be called in such manner as the board may prescribe, and a full meeting of the board shall be called at least once a year. A majority of said board shall constitute a quorum for the transaction of business but a less number may adjourn from time to time. No vacancy in said board shall impair the rights of the remaining members of the board. [1969 ex.s. c 223 § 28B.30.120. Prior: 1909 c 97 p 248 § 12; RRS § 4592; prior: 1897 c 118 § 201; 1891 c 145 § 12. Formerly RCW 28.80.100.]

28B.30.125 Regents—Board organization—President—President's duties—Bylaws, laws. The board of regents shall meet and organize by the election of a president from their own number on or as soon as practicable after the first Wednesday in April of each year.

The board president shall be the chief executive officer of the board and shall preside at all meetings thereof, except that in his absence the board may appoint a chairman pro tempore. The board president shall sign all instruments required to be executed by said board other than those for the disbursement of funds.

The board may adopt bylaws for its own organizational purposes and enact laws for the government of the university and its properties. [1969 ex.s. c 223 § 28B.30.125. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 247 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part. (iii) 1909 c 97 p 249 § 16, part; RRS § 4596, part; prior: 1897 c 118 § 205, part; 1891 c 145 § 19, part. Formerly RCW 28.80.160, part.]

28B.30.130 Regents—Treasurer of board—Bond—Disbursement of funds by. The board of regents shall appoint a treasurer who shall be the financial officer of the board and who shall hold office during the pleasure of the board. The treasurer shall render a true and faithful account of all moneys received and paid out by him, and shall give bond for the faithful performance of the duties of his office in such amount as the regents require: *Provided*, That the university shall pay the fee for such bond.

The treasurer shall make disbursements of the funds in his hands on the order of the board, which order shall be countersigned by the secretary of the board, and shall state on what account the disbursement is made. [1969 ex.s. c 223 § 28B.30.130. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 246 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part. (iii) 1909 c 97 p 249 § 16, part; RRS § 4596, part; prior: 1897 c 118 § 205, part; 1891 c 145 § 19, part. Formerly RCW 28.80.160, part.]

28B.30.135 Regents—University president as secretary of board—Duties—Bond. The president of the university shall be secretary of the board of regents but he shall not have the right to vote; as such he shall be the recording officer of said board, shall attest all instruments required to be signed by the board president, shall keep a true record of all the proceedings of the board, and shall perform all the duties pertaining to the office and do all other things required of him by the board. The secretary shall give a bond in the penal sum of not less than five thousand dollars conditioned for the faithful performance of his duties as such officer: *Provided*, That the university shall pay the fee for such bond. [1969 ex.s. c 223 § 28B.30.135. Prior: (i) 1955 c 346 § 1, part; 1909 c 97 p 246 § 6, part; RRS § 4577, part. Formerly RCW 28.80.110, part. (ii) 1909 c 97 p 247 § 7, part; RRS § 4578, part; prior: 1897 c 118 § 196, part; 1891 c 145 § 7, part. Formerly RCW 28.80.120, part.]

28B.30.140 Regents—Employees, board members, to have no interest in contracts. No employee or member of the university board of regents shall be interested pecuniarily, either directly or indirectly, in any contract for any building or improvement at said university, or for the furnishing of supplies for the same. [1969 ex.s. c 223 § 28B.30.140. Prior: 1909 c 97 p 249 § 17; RRS § 4597; prior: 1897 c 118 § 206; 1891 c 145 § 21. Formerly RCW 28.80.170.]

Code of ethics, interest in contract, public officers and employees: Chapters 42.22, 42.23 RCW.

28B.30.150 Regents—General powers and duties. The regents of Washington State University, in addition to other duties prescribed by law, shall:

(1) Have full control of the university and its property of various kinds.

(2) Employ the president of the university, his assistants, members of the faculty, and employees of the university, who, except as otherwise provided by law, shall hold their positions during the pleasure of said board of regents.

(3) Establish entrance requirements for students seeking admission to the university. Completion of examinations satisfactory to the university may be a prerequisite for entrance by any applicant, at the university's discretion. Evidence of completion of public high schools and other educational institutions whose courses of study meet the approval of the university may be acceptable for entrance.

(4) Establish such colleges, schools or departments necessary to carry out the purpose of the university and not otherwise proscribed by law.

(5) With the assistance of the faculty of the university, prescribe the courses of instruction in the various colleges, schools and departments of the institution and publish the necessary catalogues thereof.

(6) Collect such information as the board deems desirable as to the schemes of technical instruction adopted in other parts of the United States and foreign countries.

(7) Provide for holding agricultural institutes including farm marketing forums.

(8) Provide that instruction given in the university, as far as practicable, be conveyed by means of laboratory work and provide in connection with the university one or more physical, chemical, and biological laboratories, and suitably furnish and equip the same.

(9) Provide training in military tactics for those students electing to participate therein.

(10) Establish a department of elementary science and in connection therewith provide instruction in elementary mathematics, including elementary trigonometry, elementary mechanics, elementary and mechanical drawing and land surveying.

(11) Establish a department of agriculture and in connection therewith provide instruction in physics with special application of its principles to agriculture, chemistry with special application of its principles to agriculture, morphology and physiology of plants with special reference to common grown crops and fungus enemies, morphology and physiology of the lower forms of animal life, with special reference to insect pests, morphology and physiology of the higher forms of animal life and in particular of the horse, cow, sheep and swine, agriculture with special reference to the breeding and feeding of livestock and the best mode of cultivation of farm produce, and mining and metallurgy, appointing demonstrators in each of these subjects to superintend the equipment of a laboratory and to give practical instruction therein.

(12) Establish agricultural experiment stations in connection with the department of agriculture, including at least one in the western portion of the state, and appoint the officers and prescribe regulations for their management.

(13) Grant to students such certificates or degrees, as recommended for such students by the faculty.

(14) Confer honorary degrees upon persons other than graduates of the university in recognition of their learning or devotion to literature, art or science when recommended thereto by the faculty: *Provided*, That no degree shall ever be conferred in consideration of the payment of money or the giving of property of whatsoever kind.

(15) Adopt plans and specifications for university buildings and facilities or improvements thereto and employ skilled architects and engineers to prepare such plans and specifications and supervise the construction of buildings or facilities which the board is authorized to erect, and fix the compensation for such services. The board shall enter into contracts with one or more contractors for such suitable buildings, facilities or improvements as the available funds will warrant, upon the most advantageous terms offered at a public competitive letting, pursuant to public notice under regulations established by the board. The board shall require of all persons with whom they contract for construction and improvements a good and sufficient bond for the faithful performance of the work and full protection against all liens.

(16) Except as otherwise provided by law, direct the disposition of all money appropriated to or belonging to the state university.

(17) Receive and expend the money appropriated under the act of congress approved May 8, 1914, entitled "An Act to provide for cooperative agricultural extension work between the agricultural colleges in the several States receiving the benefits of the Act of Congress approved July 2, 1862, and Acts supplemental thereto and the United States Department of Agriculture" and organize and conduct agricultural extension work in connection with the state university in accordance with the terms and conditions expressed in the acts of congress.

(18) Except as otherwise provided by law, to enter into such contracts as the regents deem essential to university purposes.

(19) Acquire by lease, gift, or otherwise, lands necessary to further the work of the university or for experimental or demonstrational purposes.

(20) Establish and maintain at least one agricultural experiment station in an irrigation district to conduct investigational work upon the principles and practices of irrigational agriculture including the utilization of water and its relation to soil types, crops, climatic conditions, ditch and drain construction, fertility investigations, plant disease, insect pests, marketing, farm management, utilization of fruit byproducts and general development of agriculture under irrigation conditions.

(21) Supervise and control the agricultural experiment station at Puyallup.

(22) Establish and maintain at Wenatchee an agricultural experiment substation for the purpose of conducting investigational work upon the principles and practices of orchard culture, spraying, fertilization, pollenization, new fruit varieties, fruit diseases and pests, byproducts, marketing, management and general horticultural problems.

(23) Accept such gifts, grants, conveyances, devises and bequests, whether real or personal property, in trust

or otherwise, for the use or benefit of the university, its colleges, schools or departments; and sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms of said gifts, grants, conveyances, bequests and devises; adopt proper rules to govern and protect the receipt and expenditure of the proceeds of all fees, and the proceeds, rents, profits and income of all gifts, grants, conveyances, bequests and devises, and make full report thereof in a biennial report to the governor and members of the legislature.

(24) Construct when the board so determines a new foundry and a mining, physical, technological building and fabrication shop at the university, or add to the present foundry and other buildings, in order that both instruction and research be expanded to include permanent molding and die casting with a section for new fabricating techniques, especially for light metals, including magnesium and aluminum; purchase equipment for the shops and laboratories in mechanical, electrical, and civil engineering; establish a pilot plant for the extraction of alumina from native clays and other possible light metal research; purchase equipment for a research laboratory for technological research generally; and purchase equipment for research in electronics, instrumentation, energy sources, plastics, food technology, mechanics of materials, hydraulics and similar fields.

(25) Make and transmit to the governor and members of the legislature a printed report prior to the first day of January preceding each regular session of the legislature, including information on all receipts and disbursements of university moneys, an estimate of the needs of the institution, and such additional information as will be helpful to the state authorities in providing for the institution. [1973 1st ex.s. c 154 § 47; 1969 ex.s. c 223 § 28B.30.150. Prior: (a) 1953 c 101 § 1, amending (i) 1909 c 97 p 244 § 4; 1897 c 118 § 193; 1890 p 263 § 8; RRS § 4575. (ii) 1949 c 115 § 1, part; 1909 c 97 p 245 § 5, part; 1897 c 118 § 194; 1891 c 145 § 4; Rem. Supp. 1949 § 4576, part. (iii) 1909 c 97 p 249 § 19; 1897 c 118 § 208; 1895 c 146 § 1; RRS § 4599. (iv) 1909 c 97 p 247 § 8; 1897 c 118 § 197; 1891 c 145 § 8; RRS § 4579. (v) 1909 c 97 p 247 § 9; 1897 c 118 § 198; 1891 c 145 § 9; RRS § 4580. (vi) 1915 c 125 § 1; RRS § 4583. (vii) 1909 c 97 p 250 § 20; 1897 c 118 § 209; 1891 c 145 § 17; RRS § 4600. (viii) 1909 c 97 p 250 § 21; 1897 c 118 § 210; 1891 c 145 § 18; RRS § 4601. (ix) 1909 c 228 § 1; RRS § 4588. (x) 1917 c 101 § 1; RRS § 4589. (xi) 1917 c 101 § 2; RRS § 4590. (xii) 1909 c 97 p 249 § 15; 1897 c 118 § 204; 1891 c 145 § 16; RRS § 4595. (xiii) 1909 c 97 p 244 § 3, part; 1897 c 118 § 192; 1891 c 145 § 3; RRS § 4574, part. (xiv) 1899 c 107 § 1; RRS § 4603. (xv) 1899 c 82 § 1; RRS § 4587. (xvi) 1937 c 25 § 1; RRS § 4579-1. (xvii) 1937 c 25 § 2; RRS § 4579-2. Formerly RCW 28.80.130. (b) 1961 c 25 § 1. Formerly RCW 28.80.135.]

Severability—1973 1st ex.s. c 154: See note following RCW 2.12.030.

28B.30.200 Morrill act funds allotted to university. All funds granted by the United States government under the Morrill act, passed by congress and approved

July 2, 1892, together with all acts amendatory thereof and supplementary thereto, for the support and in aid of colleges of agriculture and mechanic arts, as well as experiment stations and farms and extension work in agriculture and home economics in connection with colleges of agriculture and mechanic arts are hereby allotted to Washington State University. [1969 ex.s. c 223 § 28B.30.200. Prior: 1917 c 11 § 2; RRS § 4584. Formerly RCW 28.80.180.]

28B.30.210 Acceptance of federal aid—1907 c 198—Assent. The state of Washington hereby assents to the purposes, terms, provisions and conditions of the grant of money provided in an act of congress approved March 16, 1906, said act being entitled "An Act to provide for an increased annual appropriation for agricultural experiment stations and regulating the expenditure thereof," and having for its purpose the more complete endowment and maintenance of agricultural experiment stations theretofore or thereafter established under an act of congress approved March 2, 1887. [1969 ex.s. c 223 § 28B.30.210. Prior: 1907 c 198 § 1; RRS § 4585. Formerly RCW 28.80.190.]

28B.30.215 Acceptance of federal aid—1907 c 198—Federal aid appropriated to university. Said annual sum appropriated and granted to the state of Washington in pursuance of said act of congress approved March 16, 1906, shall be paid as therein provided to the treasurer or other officer duly appointed by the board of regents of Washington State University at Pullman, Washington; and the board of regents of such university are hereby required to report to the secretary of agriculture on or before the first day of September of each year a detailed statement of the amount so received and of its disbursements on schedules prescribed by the secretary of agriculture. [1969 ex.s. c 223 § 28B.30.215. Prior: 1907 c 198 § 2; RRS § 4586. Formerly RCW 28.80.200.]

28B.30.220 Acceptance of federal aid—1925 ex.s. c 182. The assent of the legislature of the state of Washington to the provisions of the act of congress approved February 24, 1925, entitled "An Act to authorize the more complete endowment of agricultural experiment stations and for other purposes," is hereby given. [1969 ex.s. c 223 § 28B.30.220. Prior: 1925 ex.s. c 182 § 1. Formerly RCW 28.80.205; 28.80.190, part.]

28B.30.250 University designated as recipient of all federal aid to agricultural experiment stations. The agricultural experiment stations in connection with Washington State University shall be under the direction of said board of regents of said university for the purpose of conducting experiments in agriculture according to the terms of section one of an act of congress approved March 2, 1887, and entitled "An Act to establish agricultural experiment stations in connection with the colleges established in the several states, under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto." The said university and experiment stations shall be entitled to receive all the

benefits and donations made and given to similar institutions of learning in other states and territories of the United States by the legislation of the congress of the United States now in force, or that may be enacted, and particularly to the benefits and donations given by the provisions of an act of congress entitled "An Act donating public lands to the several states and territories which may provide colleges for the benefit of agricultural and mechanic arts," approved July 2, 1862, and all acts supplementary thereto, including the acts entitled "An Act to establish agricultural experiment stations in connection with colleges established in the several states under the provisions of an act approved July 2, 1862, and of the acts supplementary thereto," which said last entitled act was approved March 2, 1887; also, "An Act to apply a portion of the proceeds of the public lands to the more complete endowment and support of the colleges for the benefit of agriculture and the mechanic arts, established under the provisions of an act of congress approved July 2, 1862," which said last mentioned act was approved August 30, 1890. [1969 ex.s. c 223 § 28B.30.250. Prior: 1909 c 97 p 247 § 10; RRS § 4581; prior: 1897 c 118 § 199; 1891 c 145 § 10. Formerly RCW 28.80.210.]

28B.30.255 University designated as recipient of all federal aid to agricultural experiment stations—Assent to congressional grants to university. The assent of the legislature of the state of Washington is hereby given, in pursuance of the requirements of section nine of said act of congress, approved March 2, 1887, to the granting of money therein made to the establishment of experiment stations in accordance with section one of said last mentioned act, and assent is hereby given to carry out, within the state of Washington, every provision of said act. [1969 ex.s. c 223 § 28B.30.255. Prior: 1909 c 97 p 248 § 11; RRS § 4582; prior: 1897 c 118 § 200; 1891 c 145 § 11. Formerly RCW 28.80.220.]

28B.30.270 State treasurer receiving agent of certain federal aid—Acts enumerated. The state treasurer is designated as agent of the state of Washington to receive all federal appropriations for the land grant colleges in accordance with the following federal acts:

(1) Second Morrill act, approved August 30, 1890 (26 Stat. L. 417).

(2) Nelson amendment to the Morrill act making appropriations for the department of agriculture for the fiscal year ending June 30, 1908, approved March 4, 1907 (34 Stat. L. 1281).

(3) Title II, section 22 of the Bankhead-Jones act, approved June 29, 1935 (49 Stat. L. 436).

(4) Any subsequent federal act appropriating funds to the state of Washington or to Washington State University for a similar or related purpose. [1969 ex.s. c 223 § 28B.30.270. Prior: 1955 c 66 § 1. Formerly RCW 28.80.221.]

28B.30.275 State treasurer receiving agent of certain federal aid—Morrill Fund. Upon receipt of the federal grant pursuant to federal statutes, the treasurer shall deposit the same in a special trust fund to be designated

"Morrill Fund" which is hereby created for the use of the designated land grant college in the teaching of agriculture and mechanic art. [1969 ex.s. c 223 § 28B.30.275. Prior: 1955 c 66 § 2. Formerly RCW 28.80.222.]

28B.30.280 State treasurer receiving agent of certain federal aid—Withdrawals. The board of regents of Washington State University may authorize the treasurer or comptroller of Washington State University to withdraw such federal grants for the use of the university for the purposes of such grant and in accordance with state law. [1969 ex.s. c 223 § 28B.30.280. Prior: 1955 c 66 § 3. Formerly RCW 28.80.223.]

28B.30.285 State treasurer receiving agent of certain federal aid—Trust funds not subject to appropriation. All federal grants received by the state treasurer pursuant to RCW 28B.30.270 shall be deemed trust funds under the control of the state treasurer and not subject to appropriation by the legislature. [1969 ex.s. c 223 § 28B.30.285. Prior: 1955 c 66 § 4. Formerly RCW 28.80.224.]

28B.30.300 State treasurer to report annually on securities of university. It shall be the duty of the state treasurer to make a report to the board of regents of Washington State University on or as soon as practicable after the first Monday of April of each year, which shall contain a complete detailed statement:

(1) Of all stocks, bonds or other securities belonging to the agricultural college, the school of science, or other colleges of the university, which may have been deposited with said treasurer during the year next preceding said report, together with all other securities belonging to said university which may be in his custody, setting forth in separate statements those which have been derived from the sale or lease of agricultural college lands and those which have been derived from the sale or lease of the scientific school lands or other university lands.

(2) Of all interest received during the year next preceding said report, on all stocks, bonds or other securities belonging to the agricultural college, the school of science, or other colleges of the university which may be or may have been in the custody of said treasurer, and of all premiums which may have been received on securities sold or redeemed during the aforesaid period.

(3) Of all stocks, bonds or other securities belonging to the agricultural college, the school of science, or other colleges of the university, which may have been paid, redeemed or sold during the year next preceding such report, together with the principal sum or sums remaining in the hands of said treasurer uninvested. [1969 ex.s. c 223 § 28B.30.300. Prior: 1899 c 9 § 2; RRS § 7850. Formerly RCW 28.80.230.]

College funds: RCW 43.79.100-43.79.140.

28B.30.310 Land commissioner to report annually on public lands assigned to university. It shall be the duty of the state land commissioner to make a report to the board of regents of Washington State University on or

as soon as practicable after the first Monday in April of each year, which shall contain a complete detailed statement:

(1) Of all lands which have been selected under an act of congress approved July 2, 1862, entitled "An act donating public lands to the several states and territories which may provide colleges for the benefit of agriculture and the mechanic arts," and all acts supplementary thereto, and under the act of congress of February 22, 1889, entitled "An act to provide for the division of Dakota into two states to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted to the union on an equal footing with the original states, and to make donations of public lands to institutions," which said selections have been approved by the secretary of the interior, for the use and support of agricultural colleges and for a scientific school, which statement shall set forth the lands set apart for the agricultural college and for the school of science in distinct and separate lists: *Provided*, That the land commissioner shall not be required to include in such annual report a statement of approved selections and locations made in any previous annual report: *And provided further*, That when the entire amount of the one hundred and ninety thousand acres of land set apart for the use and support of the agricultural college and school of science shall have been selected, located, and approved by the secretary of the interior, and included in any annual report or reports to the said board of regents, that thereafter the land commissioner shall not be required to make such annual report.

(2) Of all lands belonging to the agricultural college and likewise to the school of science, or other colleges of the university, sold prior to the first Monday in April during the year next preceding said report, which statement shall accurately describe the lands sold, the price received for the same and all moneys received from the sale or lease of said lands or from the sale of timber, stone, hay or other valuable material from said lands and the disposition thereof: *Provided*, That the land commissioner shall not be required to include in such annual report a statement of lands sold or moneys received which shall have been included in any previous annual report. [1969 ex.s. c 223 § 28B.30.310. Prior: 1899 c 9 § 1; RRS § 7849. Formerly RCW 28.80.240.]

28B.30.320 Regents to inspect land forming grant—Reports—Expenses. To the end that the endowments of the agricultural college, the school of science and other colleges of the university may be conserved and increased, the board of regents of Washington State University may inspect or cause to be inspected the lands set apart for the use and support of the agricultural college, the school of science, and other colleges of the university, and gather or cause to be gathered such information relative to the character, condition and true value of said lands as may be conducive to a wise and advantageous disposition of the same, and collect and distribute such information as shall facilitate the sale or lease of such lands, as provided by law, and furnish such information to the land commissioner when

called for: *Provided*, That the expense of collecting and distributing such information shall be paid from the maintenance fund of the college: *Provided further*, That a report of the doings of the board of regents in the collecting and distributing of information and facilitating the sale or lease of said lands, together with the expenses incurred therein shall be included in the report of the board of regents to the governor and legislature. [1969 ex.s. c 223 § 28B.30.320. Prior: 1899 c 9 § 3; RRS § 7851. Formerly RCW 28.80.245.]

28B.30.325 Lease of lands with outdoor recreation potential—Restrictions—Unlawful to use posted lands. (1) Any lease of public lands with outdoor recreation potential authorized by the regents of Washington State University shall be open and available to the public for compatible recreational use unless the regents of Washington State University determine that the leased land should be closed in order to prevent damage to crops or other land cover, to improvements on the land, to the lessee, or to the general public or is necessary to avoid undue interference with carrying forward a university program. Any lessee may file an application with the regents of Washington State University to close the leased land to any public use. The regents shall cause written notice of the impending closure to be posted in a conspicuous place in the university's business office, and in the office of the county auditor in which the land is located thirty days prior to the public hearing. This notice shall state the parcel or parcels involved and shall indicate the time and place of the public hearing. Upon a determination by the regents that posting is not necessary, the lessee shall desist from posting. Upon a determination by the regents that posting is necessary, the lessee shall post his leased premises so as to prohibit recreational uses thereon. In the event any such lands are so posted, it shall be unlawful for any person to hunt or fish, or for any person other than the lessee or his immediate family to use such posted land for recreational purposes.

(2) The regents of Washington State University may insert the provisions of subsection (1) of this section in all leases hereafter issued. [1969 ex.s. c 46 § 4. Formerly RCW 28.80.246.]

28B.30.350 Medical, health and hospital service—Authorized. The board of regents of Washington State University is hereby granted authority to enter into such contracts, leases, or agreements as may be necessary to provide adequate medical, health, and hospital service for students of Washington State University and the people of the surrounding community and to provide adequate practice facilities for students enrolled in nursing courses. [1969 ex.s. c 223 § 28B.30.350. Prior: 1947 c 95 § 1; Rem. Supp. 1947 § 4603-20. Formerly RCW 28.80.250.]

28B.30.355 Medical, health and hospital service—Leases, contracts and agreements. The board of regents may lease lands, buildings, or other facilities from or to nonprofit corporations or associations, and may enter into such contracts and agreements with such units,

agencies, corporations, or associations as will promote the intents and purposes of RCW 28B.30.350. [1969 ex.s. c 223 § 28B.30.355. Prior: 1947 c 95 § 2; Rem. Supp. 1947 § 4603-21. Formerly RCW 28.80.260.]

28B.30.370 Forest tree nursery—Establishment—Purposes. The board of regents of Washington State University is hereby authorized to establish and maintain at or near Pullman, Washington, a forest tree nursery for the production, distribution and exchange of forest planting stock and seeds for industrial reforestation, for experimental work and research, and for educational purposes. [1969 ex.s. c 223 § 28B.30.370. Prior: 1947 c 86 § 1; Rem. Supp. 1947 § 4603-10. Formerly RCW 28.80.270.]

28B.30.375 Forest tree nursery—Location. The forest tree nursery may be located on the university farm or at such place in or near Pullman as the board of regents may determine. [1969 ex.s. c 223 § 28B.30.375. Prior: 1947 c 86 § 2; Rem. Supp. 1947 § 4603-11. Formerly RCW 28.80.280.]

28B.30.380 Forest tree nursery—Disposition of receipts—Revolving fund. All receipts from the sale and exchange of such planting stock and seeds shall be deposited in a forest tree nursery revolving fund to be maintained by the board of regents, which is hereby authorized to use such fund for the maintenance of such forest tree nursery and for other purposes authorized by RCW 28B.30.370 through 28B.30.380. [1969 ex.s. c 223 § 28B.30.380. Prior: 1947 c 86 § 4; Rem. Supp. 1947 § 4603-12. Formerly RCW 28.80.290.]

28B.30.400 Electrical research experiment station near Columbia river. The board of regents of Washington State University is authorized to establish and maintain an electrical research experiment station at a suitable place at or near an existing hydroelectric facility along the Columbia river for the purpose of conducting research and investigational work into all areas of the field of electricity, with special emphasis on the application, uses and phenomena connected with high voltages and high energy, and to cooperate with public and private agencies in the furtherance of such purposes. [1969 ex.s. c 223 § 28B.30.400. Prior: 1967 c 14 § 1; 1965 ex.s. c 139 § 1. Formerly RCW 28.80.300.]

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.30.602 Tree fruit research center facility, financing—Bonds, committee to control issuance, sale and retirement of. The issuance, sale and retirement of said bonds shall be under the supervision and control of the state finance committee. The committee is authorized to prescribe the form, terms, conditions, and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale, issuance and redemption. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and notes, if any. Such bonds shall be payable at such places as the committee may provide. [1974 ex.s. c 109 § 2.]

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

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.30.608 Tree fruit research center facility, financing—Security for bonds issued. Bonds issued under the provisions of RCW 28B.30.600 through 28B.30.619 shall state that they are a general obligation of the state of Washington, additionally secured by rental payments received from the federal government or any other funds which may be legally pledged for such purpose, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay such principal and interest as the same shall become due. [1974 ex.s. c 109 § 5.]

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.30.612 Tree fruit research center facility, financing—Rights of owner and holder of bonds. The

owner and holder of any of the bonds authorized by RCW 28B.30.600 through 28B.30.619 may by a mandamus or other appropriate proceeding require the transfer and payment of funds as directed herein. [1974 ex.s. c 109 § 7.]

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.30.616 Tree fruit research center facility, financing—Bonds, legislature may provide additional means for payment. The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW 28B.30.600 through 28B.30.619, and RCW 28B.30.600 through 28B.30.619 shall not be deemed to provide an exclusive method for such payments. [1974 ex.s. c 109 § 9.]

Severability—1974 ex.s. c 109: See note following RCW 28B.30.600.

28B.30.618 Tree fruit research center facility, financing—Bonds as legal investment for public funds. The bonds authorized in RCW 28B.30.600 through 28B.30.619 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body. [1974 ex.s. c 109 § 10.]

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.

FINANCING BUILDINGS AND FACILITIES— 1961 ACT

28B.30.700 Construction, remodeling, improvement, financing through bonds, authorized. The board of regents of Washington State University is empowered, in accordance with the provisions of RCW 28B.30.700 through 28B.30.780, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the university and to finance the payment thereof by bonds payable out of a special fund from revenues hereafter derived from the payment of general tuition fees, gifts, bequests or grants, and such additional funds as the legislature may provide. [1969 ex.s. c 223 § 28B.30.700. Prior: 1961 ex.s. c 12 § 1. Formerly RCW 28.80.500.]

28B.30.710 Definitions. The following terms, whenever used or referred to in RCW 28B.30.700 through 28B.30.780, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "board" means the board of regents of Washington State University.

(2) The words "general tuition fees" mean the general tuition fee charged students registering at the university, but shall not mean special tuition or other fees charged such students or fees, charges, rentals, and other income derived from any or all revenue-producing lands, buildings, and facilities of the university, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon.

(3) The words "bond retirement fund" mean the special fund created by RCW 28B.30.700 through 28B.30.780, to be known as the Washington State University bond retirement fund.

(4) The word "bonds" means the bonds payable out of the bond retirement fund.

(5) The word "projects" means the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility of the university authorized by the legislature at any time and to be financed by the issuance and sale of bonds. [1969 ex.s. c 223 § 28B.30.710. Prior: 1961 ex.s. c 12 § 2. Formerly RCW 28.80.510.]

Revenue bonds for construction of buildings and acquisition of facilities: RCW 28B.10.300–28B.10.330.

28B.30.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants. In addition to the powers conferred under existing law, the board is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the university as are or may be authorized by the legislature.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the revenues and receipts of the bond retirement fund.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or any public or private corporation, association, or person to aid in defraying the costs of any such projects. [1969 ex.s. c 223 § 28B.30.720. Prior: 1963 c 182 § 3; 1961 ex.s. c 12 § 3. Formerly RCW 28.80.520.]

28B.30.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. For the purpose of financing the cost of any projects, the board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of Washington State University or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the university by the president of the board, attested by the secretary or the treasurer of the board, have the seal of the university impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such president and secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.30.700 through 28B.30.780, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the general tuition fees shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement fund, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the Washington State University building account to the bond retirement fund when ordered by the board of regents in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the Washington State University building account and shall be used solely for paying the costs of the projects. [1972 ex.s. c 25 § 2; 1970 ex.s. c 56 § 28; 1969 ex.s. c 232 § 102; 1969 ex.s. c 223 § 28B.30.730. Prior: 1961 ex.s. c 12 § 4. Formerly RCW 28.80.530.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.30.740 Washington State University bond retirement fund—Composition—Pledge of general tuition fees. For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to a special trust fund to be known as the Washington State University bond retirement fund, which fund is hereby created in the state treasury, the following:

(1) One-half of such general tuition fees as the board may from time to time determine, or such larger portion as may be necessary to prevent default in the payments required to be made out of the bond retirement fund;

(2) Any grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remain unpaid, be available solely for the payment thereof except as provided in subdivision (5) of RCW 28B.30.750. As a part of the contract of sale of such bonds, the board shall undertake to charge and collect general tuition fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay the principal of, and interest on all such bonds outstanding. [1969 ex.s. c 223 § 28B.30.740. Prior: 1961 ex.s. c 12 § 5. Formerly RCW 28.80.540.]

28B.30.741 Washington State University bond retirement fund—Disposition of certain revenues from scientific school lands. All moneys received from the lease or rental of lands set apart by the enabling act for a scientific school; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel or other valuable material thereon; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the "Washington State University bond retirement fund" to be expended for the purposes set forth in RCW 28B.30.740. [1969 ex.s. c 223 § 28B.30.741. Prior: 1965 c 77 § 1. Formerly RCW 28.80.541.]

28B.30.742 Washington State University bond retirement fund—Disposition of certain revenues from agricultural college lands. Whenever federal law shall permit, but in no event prior to July 1, 1967, all moneys received from the lease or rental of lands set apart by the enabling act for an agricultural college, all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel or other valuable material thereon; and all moneys received as interest on deferred payments on contracts for the sale of such lands shall be deposited in the Washington State University bond retirement fund to be expended for the purposes set forth in RCW 28B.30.740. [1969 ex.s. c 223 § 28B.30.742. Prior: 1965 c 77 § 2. Formerly RCW 28.80.542.]

28B.30.750 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. The board is hereby empowered:

- (1) To reserve the right to issue bonds later on a parity with any bonds being issued;
- (2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;
- (3) To authorize the transfer of money from the Washington State University building account to the bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;
- (4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds;
- (5) To authorize the transfer to the Washington State University building account of any money on deposit in the bond retirement fund in excess of debt service for a period of three years from the date of such transfer on

all outstanding bonds payable out of such fund. [1969 ex.s. c 223 § 28B.30.750. Prior: 1961 ex.s. c 12 § 6. Formerly RCW 28.80.550.]

28B.30.760 Refunding bonds. The board is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW 28B.30.700 through 28B.30.780 for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of Washington State University or the board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the university. [1970 ex.s. c 56 § 29; 1969 ex.s. c 232 § 103; 1969 ex.s. c 223 § 28B.30.760. Prior: 1961 ex.s. c 12 § 7. Formerly RCW 28.80.560.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.30.770 Bonds not general obligations—Legislature may provide additional means of payment. The bonds authorized to be issued pursuant to the provisions of RCW 28B.30.700 through 28B.30.780 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special fund created for their payment. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.30.700 through 28B.30.780 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28B.30.770. Prior: 1961 ex.s. c 12 § 8. Formerly RCW 28.80.570.]

28B.30.780 Other laws not repealed or limited. RCW 28B.30.700 through 28B.30.780 is concurrent with other legislation with reference to providing funds for the construction of buildings at Washington State University, and is not to be construed as repealing or limiting any existing provision of law with reference thereto. [1969 ex.s. c 223 § 28B.30.780. Prior: 1961 ex.s. c 12 § 9. Formerly RCW 28.80.580.]

28B.30.800 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges. See RCW 28B.10.300 through 28B.10.330.

Chapter 28B.40
STATE COLLEGES

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28B.40.010 Designation. The state colleges shall be located and designated as follows: At Bellingham, Western Washington State College; at Cheney, Eastern Washington State College; at Ellensburg, Central Washington State College; in Thurston county, The Evergreen State College. [1969 ex.s. c 223 § 28B.40.010. Prior: 1967 c 47 § 6; 1961 c 62 § 2; 1957 c 147 § 2; prior: (i) 1909 c 97 p 251 § 1, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1937 c 23 § 1; RRS § 4604–1. (iii) 1937 c 23 § 2; RRS § 4604–2. (iv) 1937 c 23 § 3; RRS § 4604–3. Formerly RCW 28.81.010.]

28B.40.100 Trustees—Appointment and term. The government of each of the state colleges shall be vested

in a board of trustees consisting of five members. They shall be appointed by the governor with the consent of the senate and shall hold their offices for a term of six years from the second Monday in March next succeeding their appointment and until their successors are appointed and qualified. In case of a vacancy the governor shall fill the vacancy for the unexpired term of the trustee whose office has become vacant.

No more than the terms of two members will expire simultaneously on the second Monday of March in any one year. [1973 c 62 § 11; 1969 ex.s. c 223 § 28B.40-.100. Prior: 1967 ex.s. c 5 § 2; 1957 c 147 § 3; prior: (i) 1909 c 97 p 251 § 1, part; 1897 c 118 § 212; 1893 c 107 § 1; RRS § 4604, part. (ii) 1909 c 97 p 251 § 2; 1897 c 118 § 213; 1893 c 107 § 2; RRS § 4605. Formerly RCW 28.81.020.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.40.105 Trustees—Organization and officers of board—Quorum. Each board of state college trustees shall elect one of its members chairman, and it shall elect a secretary, who may or may not be a member of the board. Each board shall have power to adopt bylaws for its government and for the government of the school, which bylaws shall not be inconsistent with law, and to prescribe the duties of its officers, committees and employees. A majority of the board shall constitute a quorum for the transaction of all business. [1969 ex.s. c 223 § 28B.40.105. Prior: 1909 p 252 § 3; RRS § 4606; prior: 1897 c 118 § 214; 1893 c 107 § 3. Formerly RCW 28.81.030 and 28.81.050(1), (2).]

28B.40.110 Trustees—Meetings of board. Each board of state college trustees shall hold at least two regular meetings each year, at such times as may be provided by the board. Special meetings shall be held as may be deemed necessary, whenever called by the chairman or by a majority of the board. Public notice of all meetings shall be given in accordance with chapter 42.32 RCW. [1969 ex.s. c 223 § 28B.40.110. Prior: 1917 c 128 § 1, part; 1909 c 97 p 253 § 6, part; RRS § 4609, part; prior: 1897 c 118 § 217, part; 1893 c 107 § 6, part. Formerly RCW 28.81.040, part.]

Open public meetings act: Chapter 42.30 RCW.

28B.40.115 Trustees—Joint trustees' meetings. The several boards of state college trustees shall hold at least one meeting each year, at a time and at a place agreed upon by the several boards, for the purpose of discussing state college policies, and to agree upon the best means for general betterment. The presidents of the several state colleges or their designees shall attend such meetings and make such reports and offer such suggestions as will enable the trustees to determine the greatest needs of these institutions. [1969 ex.s. c 223 § 28B.40-.115. Prior: 1917 c 128 § 1, part; 1909 c 97 p 253 § 6, part; RRS § 4609, part; prior: 1897 c 118 § 217, part; 1893 c 107 § 6, part. Formerly RCW 28.81.040, part.]

28B.40.120 Trustees—General powers and duties of board. In addition to any other powers and duties

prescribed by law, each board of trustees of the respective state colleges:

(1) Shall have full control of the state college and its property of various kinds.

(2) Shall employ the president of the state college, his assistants, members of the faculty, and other employees of the institution, who, except as otherwise provided by law, shall hold their positions, until discharged therefrom by the board for good and lawful reason.

(3) With the assistance of the faculty of the state college, shall prescribe the course of study in the various schools and departments thereof and publish such catalogues thereof as the board deems necessary: *Provided*, That the state board of education shall determine the requisites for and give program approval of all courses leading to teacher certification by such board.

(4) Establish such divisions, schools or departments necessary to carry out the purposes of the college and not otherwise proscribed by law.

(5) Except as otherwise provided by law, may establish and erect such new facilities as determined by the board to be necessary for the college.

(6) May acquire real and other property as provided in RCW 28B.10.020, as now or hereafter amended.

(7) Except as otherwise provided by law, may purchase all supplies and purchase or lease equipment and other personal property needed for the operation or maintenance of the college.

(8) May establish, lease, operate, equip and maintain self-supporting facilities in the manner provided in RCW 28B.10.300 through 28B.10.330, as now or hereafter amended.

(9) Except as otherwise provided by law, to enter into such contracts as the trustees deem essential to college purposes.

(10) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from whatsoever source, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the college programs; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof except as limited by the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof.

(11) May promulgate such rules and regulations, and perform all other acts not forbidden by law, as the board of trustees may in its discretion deem necessary or appropriate to the administration of the college. [1969 ex.s. c 223 § 28B.40.120. Prior: 1909 c 97 p 252 § 4; RRS § 4607; prior: 1905 c 85 § 1; 1897 c 118 § 215; 1893 c 107 § 4. Formerly RCW 28.81.050.]

28B.40.130 Trustees—Reports by board. Each board of state college trustees, prior to each regular session of the legislature, through its secretary, shall make a biennial report to the governor of the state, for his use and for the use of the legislature, which report shall contain such information as the board may deem advisable for informing the governor and legislature of their college's program and needs. [1969 ex.s. c 223 § 28B-.40.130. Prior: 1909 c 97 p 256 § 15; RRS § 4622; prior:

1897 c 118 § 226; 1895 c 146 § 3; 1893 c 107 § 20. Formerly RCW 28.81.057; 28.81.050(20).]

28B.40.190 Trustees—Fire protection services. Each board of trustees of the state colleges may:

(1) Contract for such fire protection services as may be necessary for the protection and safety of the students, staff and property of the college;

(2) By agreement pursuant to the provisions of chapter 239, Laws of 1967 (chapter 39.34 RCW), as now or hereafter amended, join together with other agencies or political subdivisions of the state or federal government and otherwise share in the accomplishment of any of the purposes of subsection (1) of this section:

Provided, however, That neither the failure of the trustees to exercise any of its powers under this section nor anything herein shall detract from the lawful and existing powers and duties of political subdivisions of the state to provide the necessary fire protection equipment and services to persons and property within their jurisdiction. [1970 ex.s. c 15 § 28. Like section formerly RCW 28.81.190.]

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

28B.40.200 Bachelor degrees authorized. The degree of bachelor of arts or the degree of bachelor of science and/or the degree of bachelor of arts in education may be granted to any student who has completed a four-year course of study or the equivalent thereof in Central Washington State College, Eastern Washington State College, Western Washington State College or The Evergreen State College. [1969 ex.s. c 223 § 28B.40.200. Prior: 1967 c 231 § 1; 1967 c 47 § 7; 1947 c 109 § 1; 1933 c 13 § 1; Rem. Supp. 1947 § 4618-1. Formerly RCW 28.81.052; 28.81.050(16).]

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.40.220 Nursing degrees authorized. In addition to all other powers and duties given to them by law, the boards of trustees of Central Washington State College,

Eastern Washington State College, Western Washington State College, and The Evergreen State College may grant an associate degree in nursing to any student who has satisfactorily completed a two-year course of study or the equivalent thereof approved by the proper accrediting state agency. [1969 ex.s. c 223 § 28B.40.220. Prior: 1967 c 47 § 9, part; 1963 c 109 § 1, part. Formerly RCW 28.81.054, part.]

28B.40.225 Degree of doctor of philosophy in education authorized—Effective date—Program limitation. In addition to all other powers and duties given to them by law, the board of trustees of Western Washington State College is hereby authorized to grant a degree of doctor of philosophy in education to any student who has completed a program of study and research in those areas which are determined by the faculty of the college and the board of trustees to be appropriate for the granting of such degree: *Provided,* That such program shall not commence prior to July 1, 1971: *And provided further,* That if the council on higher education shall have been created by the legislature, the inauguration of the program authorized by this section shall be subject to the review and recommendations of the council which shall consider such program in the light of the overall state needs and capabilities for the award of doctoral degrees, both present and future. [1969 ex.s. c 196 § 2. Formerly RCW 28.81.055.]

Council on higher education: Chapter 28B.80 RCW.

28B.40.230 Certificates, diplomas—Signing—Contents. Every diploma issued by a state college shall be signed by the chairman of the board of trustees and by the president of the state college issuing the same, and sealed with the appropriate seal. In addition to the foregoing, teaching certificates shall be countersigned by the state superintendent of public instruction. Every certificate shall specifically state what course of study the holder has completed and for what length of time such certificate is valid in the schools of the state. [1969 ex.s. c 223 § 28B.40.230. Prior: 1917 c 128 § 4; 1909 c 97 p 254 § 9; RRS § 4615; prior: 1897 c 118 § 220; 1895 c 146 § 2; 1893 c 107 § 13. Formerly RCW 28.81.056; 28.81.050(15).]

28B.40.300 Model schools and training departments—Purpose. A model school or schools or training departments may be provided for each state college, in which students, before graduation, may have actual practice in teaching or courses relative thereto under the supervision and observation of critic teachers. All schools or departments involved herewith shall organize and direct their work being cognizant of public school needs. [1969 ex.s. c 223 § 28B.40.300. Prior: 1917 c 128 § 2; 1909 c 97 p 253 § 8; RRS § 4611; prior: 1897 c 118 § 219; 1893 c 107 § 12. Formerly RCW 28.81.058; 28.81.050(12).]

28B.40.305 Model schools and training departments—Trustees to estimate number of pupils required. The board of trustees of any state college having a model school or training department as authorized

by RCW 28B.40.300, shall, on or before the first Monday of September of each year, file with the board of the school district or districts in which such state college is situated, a certified statement showing an estimate of the number of public school pupils who will be required to make up such model school and specifying the number required for each grade for which training for students is required. [1969 ex.s. c 223 § 28B.40.305. Prior: 1907 c 97 § 1; RRS § 4612. Formerly RCW 28.81.059; 28.81.050(13).]

28B.40.310 Model schools and training departments—Requisitioning of pupils—President may refuse admission. It shall thereupon be the duty of the board of the school district or districts with which such statement has been filed, to apportion for attendance to the said model school or training department, a sufficient number of pupils from the public schools under the supervision of said board as will furnish to such state college the number of pupils required in order to maintain such facility: *Provided*, That the president of said state college may refuse to accept any such pupil as in his judgment would tend to reduce the efficiency of said model school or training department. [1969 ex.s. c 223 § 28B.40.310. Prior: 1907 c 97 § 2; RRS § 4613. Formerly RCW 28.81.060.]

28B.40.315 Model schools and training departments—Report of attendance. Annually, on or before the date for reporting the school attendance of the school district in which said model school or training department is situated, for the purpose of taxation for the support of the common schools, the board of trustees of each such state college having supervision over the same shall file with the board of the school district or districts, in which such model school or training department is situated, a report showing the number of common school pupils at each such model school or training department during the school year last passed, and the period of their attendance in the same form that reports of public schools are made. Any superintendent of the school district so affected shall, in reporting the attendance in said school district, segregate the attendance at said model school or training department, from the attendance in the other schools of said district: *Provided*, That attendance shall be credited, if credit be given therefor, to the school district in which the pupil resides. [1969 ex.s. c 223 § 28B.40.315. Prior: 1917 c 128 § 3; 1907 c 97 § 3; RRS § 4614. Formerly RCW 28.81.061; 28.81.050(14).]

28B.40.350 Suspension and expulsion. Any student may be suspended or expelled from any state college who is found to be immoral or guilty of an infraction of the regulations of the institution. [1969 ex.s. c 223 § 28B.40.350. Prior: 1961 ex.s. c 13 § 2, part; prior: (i) 1909 c 97 p 255 § 13; RRS § 4620. (ii) 1921 c 136 § 1, part; 1905 c 85 § 3, part; RRS § 4616, part. Formerly RCW 28.81.070.]

28B.40.360 State college fees. See chapter 28B.15 RCW.

28B.40.361 Exemption of certain veterans from payment of fees. The boards of trustees may exempt from the payment of general tuition, operating fees, or services and activities fees, except for individual instruction fees, all veterans who served in the armed forces of the United States who have served the United States during any period of war as defined in RCW 41.04.005 and who shall have served with evidence of conduct other than undesirable, bad conduct or dishonorable upon release from active service: *Provided*, That such person is no longer entitled to federal vocational or educational benefits conferred by virtue of his military service, and all children after the age of nineteen years of any law enforcement officer or fire fighter who lost his life or became totally disabled in the line of duty while employed by any public law enforcement agency or full time or volunteer fire department in this state. [1973 1st ex.s. c 191 § 3; 1971 ex.s. c 279 § 16; 1969 ex.s. c 269 § 9. Cf. 1969 ex.s. c 269 § 5. Formerly RCW 28.81.084.]

Effective date—1973 1st ex.s. c 191: See note following RCW 28B.15.380.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

"Totally disabled" defined for certain purposes: RCW 28B.15.385.

28B.40.370 Disposition of general tuition fees and normal school fund revenues—Bond payments—Bond retirement funds—Capital projects accounts for construction, equipment, maintenance of buildings, etc. Within thirty-five days from the date of collection thereof all general tuition fees of each state college shall be paid into the state treasury and these together with such normal school fund revenues as provided in RCW 28B.40.751 as are received by the state treasury shall be credited as follows:

(1) On or before June 30th of each year the board of trustees of each college issuing bonds payable out of its general tuition fees and above described normal school fund revenues shall certify to the state treasurer the amounts required in the ensuing twelve months to pay and secure the payment of the principal of and interest on such bonds. The amounts so certified by each college shall be a prior lien and charge against all general tuition fees and above described normal school fund revenues of such college. The state treasurer shall thereupon deposit the amounts so certified in the Eastern Washington State College bond retirement fund, the Central Washington State College bond retirement fund, the Western Washington State College bond retirement fund, or The Evergreen State College bond retirement fund respectively, which funds are hereby created in the state treasury. The amounts deposited in the respective bond retirement funds shall be used exclusively to pay and secure the payment of the principal of and interest on the tuition fee bonds issued by such colleges as authorized by law. If in any twelve month period it shall appear that the amount certified by any such board of trustees is insufficient to pay and secure the payment of the principal of and interest on the outstanding general tuition fee and above described normal school fund revenue bonds of its college, the state treasurer shall notify

the board of trustees and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal of and interest on all such bonds then outstanding shall be fully met at all times.

(2) All general tuition fees and above described normal school fund revenue not needed for or in excess of the amounts certified to the state treasurer as being required to pay and secure the payment of general tuition fee or above described normal school fund revenue bond principal or interest shall be deposited in the Eastern Washington State College capital projects account, the Central Washington State College capital projects account, the Western Washington State College capital projects account respectively, which accounts are hereby created in the general fund of the state treasury. The sums deposited in the respective capital projects accounts shall be appropriated and expended exclusively for the construction, reconstruction, erection, equipping, maintenance, demolition and major alteration of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances in relation thereto except for any sums transferred therefrom as authorized by law. [1969 ex.s. c 223 § 28B.40.370. Prior: 1967 c 47 §§ 11, 14; 1965 c 76 § 2; 1961 ex.s. c 14 § 5; 1961 ex.s. c 13 § 4. Formerly RCW 28.81.085, 28.81.540.]

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.

28B.40.390 Duties of president. The president of each state college shall have general supervision of the college and see that all laws and rules of the board of trustees are observed. [1969 ex.s. c 223 § 28B.40.390. Prior: 1909 c 97 p 253 § 7; RRS § 4610; prior: 1897 c 118 § 218; 1893 c 107 § 7. Formerly RCW 28.81.110.]

28B.40.400 Meetings of presidents. It shall be the duty of the presidents of the several state colleges to meet at least once annually to consult with each other relative to the management of the state colleges. [1969 ex.s. c 223 § 28B.40.400. Prior: 1909 c 97 p 256 § 14; RRS § 4621; prior: 1897 c 118 § 225; 1893 c 107 § 19. Formerly RCW 28.81.120.]

28B.40.500 Annuities and retirement income plans for faculty members. See RCW 28B.10.400 through 28B.10.423.

28B.40.505 Tax deferred annuities for employees. See RCW 28B.10.480.

FINANCING BUILDINGS AND FACILITIES— 1961 ACT

28B.40.700 Construction, remodeling, improvement, financing, etc.—Authorized. The boards of trustees of the state colleges are empowered in accordance with the provisions of RCW 28B.40.700 through 28B.40.790, to provide for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of buildings and facilities authorized by the legislature for the use of the aforementioned colleges and to finance the payment thereof by bonds payable out of special funds from revenues hereafter derived from the payment of general tuition fees, gifts, bequests or grants and such additional funds as the legislature may provide. [1969 ex.s. c 223 § 28B.40.700. Prior: 1967 c 47 § 12; 1961 ex.s. c 14 § 1. Formerly RCW 28.81.500.]

28B.40.710 Definitions. The following terms, when ever used or referred to in RCW 28B.40.700 through 28B.40.790, shall have the following meaning, excepting in those instances where the context clearly indicates otherwise:

(1) The word "boards" means the boards of trustees of the state colleges.

(2) The words "general tuition fees" mean the general tuition fees charged students registering at each college, but shall not mean the special tuition or other fees charged such students or fees, charges, rentals, and other income derived from any or all revenue-producing lands, buildings, and facilities of the respective colleges, heretofore or hereafter acquired, constructed or installed, including but not limited to income from rooms, dormitories, dining rooms, hospitals, infirmaries, housing or student activity buildings, vehicular parking facilities, land or the appurtenances thereon.

(3) The words "bond retirement funds" shall mean the special funds created by law and known as the Eastern Washington State College bond retirement fund, Central

Washington State College bond retirement fund, Western Washington State College bond retirement fund, and The Evergreen State College bond retirement fund.

(4) The word "bonds" means the bonds payable out of the bond retirement funds.

(5) The word "projects" means the construction, completion, reconstruction, remodeling, rehabilitation, or improvement of any building or other facility of any of the aforementioned colleges authorized by the legislature at any time and to be financed by the issuance and sale of bonds. [1969 ex.s. c 223 § 28B.40.710. Prior: 1967 c 47 § 13; 1961 ex.s. c 14 § 2. Formerly RCW 28.81.510.]

28B.40.720 Contracts, issuance of evidences of indebtedness, bonds, acceptance of grants. In addition to the powers conferred under existing law, each of the boards is authorized and shall have the power:

(1) To contract for the construction, completion, reconstruction, remodeling, rehabilitation and improvement of such buildings or other facilities of the college as are authorized by the legislature to be financed by the issuance and sale of bonds.

(2) To finance the same by the issuance of bonds secured by the pledge of any or all of the general tuition fees.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or private corporation, association, or person to aid in defraying the costs of any such projects. [1969 ex.s. c 223 § 28B.40.720. Prior: 1961 ex.s. c 14 § 3. Formerly RCW 28.81.520.]

28B.40.730 Bonds—Issuance, sale, form, term, interest, etc.—Covenants—Deposit of proceeds. For the purpose of financing the cost of any projects, each of the boards is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) An obligation, either general or special, of the state; or

(b) A general obligation of the college or of the board;

(2) Shall be

(a) Either registered or in coupon form; and

(b) Issued in denominations of not less than one hundred dollars; and

(c) Fully negotiable instruments under the laws of this state; and

(d) Signed on behalf of the college by the chairman of the board, attested by the secretary of the board, have the seal of the college impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such chairman and the secretary;

(3) Shall state

(a) The date of issue; and

(b) The series of the issue and be consecutively numbered within the series; and

(c) That the bond is payable both principal and interest solely out of the bond retirement fund;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.40.700 through 28B.40.790, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that the general tuition fee shall be established, maintained and collected in such amounts that will provide money sufficient to pay the principal of and interest on all bonds payable out of the bond retirement fund, to set aside and maintain the reserves required to secure the payment of such principal and interest, and to maintain any coverage which may be required over such principal and interest;

(b) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(c) A covenant that sufficient moneys may be transferred from the capital projects account of the college issuing the bonds to the bond retirement fund of such college when ordered by the board of trustees in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(d) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the capital projects account of the college issuing the bonds and shall be used solely for paying the costs of the projects. [1970 ex.s. c 56 § 30; 1969 ex.s. c 232 § 104; 1969 ex.s. c 223 § 28B.40.730. Prior: 1961 ex.s. c 14 § 4. Formerly RCW 28.81.530.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See note following RCW 39.44.030.

Capital projects accounts of state colleges: RCW 28B.40.370.

28B.40.740 Disposition of general tuition fees and normal school fund revenues—Bond payments, etc. See RCW 28B.40.370.

28B.40.750 Funds payable into bond retirement funds—Pledge of general tuition fees. For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to the respective bond retirement fund of each college issuing bonds, the following:

(1) Amounts derived from general tuition fees as the board shall certify as necessary to prevent default in the payments required to be paid into such bond retirement fund;

(2) Any grants which may be made, or may become available, for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of such bonds, the board shall undertake to charge and collect general tuition fees and to deposit the portion of such fees in the bond retirement fund in amounts which will be sufficient to pay and secure the payment of the principal of, and interest on all such bonds outstanding. [1969 ex.s. c 223 § 28B.40.750. Prior: 1961 ex.s. c 14 § 6. Formerly RCW 28.81.550.]

28B.40.751 Disposition of certain normal school fund revenues. All moneys received from the lease or rental of lands set apart by the enabling act for state normal schools purposes; all interest or income arising from the proceeds of the sale of such lands or of the timber, fallen timber, stone, gravel, or other valuable material thereon; and all moneys received as interest on deferred payments on contracts for the sale of such lands, shall from time to time be paid into the state treasury and credited to the Eastern Washington State College, Central Washington State College, Western Washington State College and The Evergreen State College accounts as herein provided to be expended for capital projects, and bond retirement purposes as set forth in RCW 28B.40.750, as now or hereafter amended. Eastern Washington State College, Central Washington State College, Western Washington State College, and The Evergreen State College shall be credited with one-fourth of the total amount: *Provided*, That Eastern Washington State College, Central Washington State College and Western Washington State College shall each be credited with one-third of the total amount for so long as there remain unpaid and outstanding any bonds which are payable in whole or in part out of the moneys, interest or income described in this section. [1969 ex.s. c 223 § 28B.40.751. Prior: 1967 c 47 § 15; 1965 c 76 § 1. Formerly RCW 28.81.551.]

28B.40.760 Additional powers of board—Issuance of bonds, investments, transfer of funds, etc. The board of any such college is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the college's capital projects account to the college's bond retirement fund when necessary to prevent a default in the payments required to be made out of such fund;

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds. [1969 ex.s. c 223 § 28B.40.760. Prior: 1961 ex.s. c 14 § 7. Formerly RCW 28.81.560.]

28B.40.770 Refunding bonds. Each board of trustees is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW 28B.40.700 through 28B.40.790 for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the college of Washington issuing the bonds or the board thereof. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the college. [1970 ex.s. c 56 § 31; 1969 ex.s. c 232 § 105; 1969 ex.s. c 223 § 28B.40.770. Prior: 1961 ex.s. c 14 § 8. Formerly RCW 28.81.570.]

Purpose—Effective date—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—Saving—Severability—1969 ex.s. c 232: See note following RCW 39.44.030.

28B.40.780 Bonds not general obligation—Legislature may provide additional means of payment. The bonds authorized to be issued pursuant to the provisions of RCW 28B.40.700 through 28B.40.790 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special funds created for their payment. The legislature may provide additional means for raising money for the payment of interest and principal of said bonds. RCW 28B.40.700 through 28B.40.790 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide for additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28B.40.780. Prior: 1961 ex.s. c 14 § 9. Formerly RCW 28.81.580.]

28B.40.790 Other laws not repealed or limited. RCW 28B.40.700 through 28B.40.790 is concurrent with other legislation with reference to providing funds for the construction of buildings at the state colleges and is not to

be construed as repealing or limiting any existing provision of law with reference thereto. [1969 ex.s. c 223 § 28B.40.790. Prior: 1961 ex.s. c 14 § 10. Formerly RCW 28.81.590.]

28B.40.795 Acquisition, construction, equipping and betterment of lands, buildings and facilities at universities and state colleges. See RCW 28B.10.300 through 28B.10.330.

28B.40.810 The Evergreen State College—Established. There is hereby established in Thurston county a state college, The Evergreen State College. [1969 ex.s. c 223 § 28B.40.810. Prior: 1967 c 47 § 2. Formerly RCW 28.81.610.]

Legislative declaration of purpose: See 1967 c 47 § 1.

Bond issue, appropriation, construction phase I: RCW 43.83.100.

Site selection and initial procedure to prepare college for reception of students: See 1967 c 47 § 4.

State building authority, approved project for: See note following RCW 43.75.030.

28B.40.820 The Evergreen State College—Trustees—Appointment—Terms. The terms of office and date of commencement thereof of the five member board of trustees of The Evergreen State College appointed by the governor prior to August 1, 1967, shall be the same as prescribed by law for trustees of state colleges under RCW 28B.40.100, as now or hereafter amended, except that initial appointments shall be for terms as follows: One for two years, one for three years, one for four years, one for five years, and one for six years. [1969 ex.s. c 223 § 28B.40.820. Prior: 1967 c 47 § 3. Formerly RCW 28.81.620.]

28B.40.830 The Evergreen State College—Trustees, powers and duties—Existing statutes as applicable to college—Federal benefits and donations. The board of trustees of The Evergreen State College shall have all the powers and duties as are presently or may hereafter be granted to existing state colleges by law. All statutes pertaining to the existing state colleges shall have full force and application to The Evergreen State College.

The Evergreen State College is hereby deemed entitled to receive and share in all the benefits and donations made and given to similar institutions by the enabling act or other federal law to the same extent as other state colleges are entitled to receive and share in such benefits and donations. [1969 ex.s. c 223 § 28B.40.830. Prior: 1967 c 47 § 5. Formerly RCW 28.81.630.]

Chapter 28B.50

COMMUNITY COLLEGE ACT OF 1967

(AND COMMUNITY COLLEGES GENERALLY)

Sections

- 28B.50.010 Short title.
- 28B.50.020 Purpose.
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- 28B.50.040 Community college districts enumerated.
- 28B.50.050 State board for community college education—Created—Members—Appointment—Terms—Qualifications—Travel expenses—Removal.

- 28B.50.060 Director of the state system of community colleges—Appointment—Term—Qualifications—Salary and travel expenses—Duties.
- 28B.50.070 College board—Organization—Meetings—Quorum—Annual report—Fiscal year.
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- 1972 community college facilities aid—Bond issue: Chapter 28B.56 RCW.*
- 1975 community college general capital projects bond, act: Chapter 28B.58 RCW.*
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- 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.50.010 Short title. This chapter shall be known as and may be cited as the community college act of 1967. [1969 ex.s. c 223 § 28B.50.010. Prior: 1967 ex.s. c 8 § 1. Formerly RCW 28.85.010.]

28B.50.020 Purpose. The purpose of this chapter is to provide for the dramatically increasing number of students requiring high standards of education either as a part of the continuing higher education program or for occupational training, by creating a new, independent system of community colleges which will:

(1) Offer an open door to every citizen, regardless of his academic background or experience, at a cost normally within his economic means;

(2) Ensure that each community college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining, with equal emphasis, high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; community services of an educational, cultural, and recreational nature; and adult education;

(3) Provide administration by state and local boards which will avoid unnecessary duplication of facilities or programs; and which will encourage efficiency in operation and creativity and imagination in education, training and service to meet the needs of the community and students;

(4) Allow for the growth, improvement, flexibility and modification of the community colleges and their education, training and service programs as future needs occur; and

(5) Establish firmly that community colleges are, for purposes of academic training, two year institutions, and are an independent, unique, and vital section of our state's higher education system, separate from both the common school system and other institutions of higher learning, and never to be considered for conversion into four-year liberal arts colleges. [1969 ex.s. c 261 § 17; 1969 ex.s. c 223 § 28B.50.020. Prior: 1967 ex.s. c 8 § 2. Like section formerly RCW 28.85.020.]

Severability—1969 ex.s. c 261: "If any provision of this 1969 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected." [1969 ex.s. c 261 § 37. Formerly RCW 28.85.911.] This applies to RCW 28B.15.520, 28B.50.020, 28B.50.030, 28B.50.050, 28B.50.060, 28B.50.090, 28B.50.100, 28B.50.140, 28B.50.240, 28B.50.250, 28B.50.340, 28B.50.350, 28B.50.360, 28B.50.535, 28B.50.600, and 43.75.020.

Cooperation mandated between common school and community college districts: RCW 28C.04.070.

28B.50.030 Definitions. As used in this chapter, unless the context requires otherwise, the term:

(1) "System" shall mean the state system of community colleges, which shall be a system of higher education;

(2) "College board" shall mean the state board for community college education created by this chapter;

(3) "Director" shall mean the administrative director for the state system of community colleges;

(4) "District" shall mean any one of the community college districts created by this chapter;

(5) "Board of trustees" shall mean the local community college board of trustees established for each community college district within the state;

(6) "Council" shall mean the coordinating council for occupational education;

(7) "Occupational education" shall mean that education or training that will prepare a student for employment that does not require a baccalaureate degree;

(8) "K-12 system" shall mean the public school program including kindergarten through the twelfth grade;

(9) "Common school board" shall mean a public school district board of directors;

(10) "Community college" shall include where applicable, vocational-technical and adult education programs conducted by community colleges and vocational-technical institutes whose major emphasis is in post-high school education;

(11) "Adult education" shall mean all education or instruction, including academic, vocational education or training, and "occupational education" provided by public educational institutions, including common school districts for persons who are eighteen years of age and over or who hold a high school diploma or certificate: *Provided*, That "adult education" shall not include academic education or instruction for persons under twenty-one years of age who do not hold a high school degree or diploma and who are attending a public high school for the sole purpose of obtaining a high school diploma or certificate: *Provided, further*, That "adult education" shall not include education or instruction provided by any four year public institution of higher education: *And provided further*, That adult education shall not include education or instruction provided by a vocational-technical institute. [1973 c 62 § 12; 1969 ex.s. c 261 § 18; 1969 ex.s. c 223 § 28B.50.030. Prior: 1967 ex.s. c 8 § 3. Like section formerly RCW 28.85.030.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

28B.50.040 Community college districts enumerated. The state of Washington is hereby divided into twenty-two community college districts as follows:

(1) The first district shall encompass the counties of Clallam and Jefferson;

(2) The second district shall encompass the counties of Grays Harbor and Pacific;

(3) The third district shall encompass the counties of Kitsap and Mason;

(4) The fourth district shall encompass the counties of San Juan, Skagit and Island;

(5) The fifth district shall encompass Snohomish county except for the Northshore common school district;

(6) The sixth district shall encompass the present boundaries of the common school districts of Seattle and Vashon Island, King county;

(7) The seventh district shall encompass the present boundaries of the common school districts of Shoreline in King county and Northshore in King and Snohomish counties;

(8) The eighth district shall encompass the present boundaries of the common school districts of Lake Washington, Bellevue, Issaquah, Lower Snoqualmie, Mercer Island, Skykomish and Snoqualmie, King county;

(9) The ninth district shall encompass the present boundaries of the common school districts of Federal Way, Highline and South Central, King county;

(10) The tenth district shall encompass the present boundaries of the common school districts of Auburn, Black Diamond, Renton, Enumclaw, Kent, Lester and Tahoma, King county, and the King county portion of Puyallup common school district No. 3;

(11) The eleventh district shall encompass all of Pierce county, except for the present boundaries of the common school districts of Tacoma and Peninsula;

(12) The twelfth district shall encompass the counties of Lewis and Thurston;

(13) The thirteenth district shall encompass the counties of Cowlitz, and Wahkiakum;

(14) The fourteenth district shall encompass the counties of Clark, Skamania and that portion of Klickitat county not included in the sixteenth district;

(15) The fifteenth district shall encompass the counties of Chelan, Douglas and Okanogan;

(16) The sixteenth district shall encompass the counties of Kittitas, Yakima, and that portion of Klickitat county included in United States census divisions 1 through 4;

(17) The seventeenth district shall encompass the counties of Ferry, Lincoln (except consolidated school district 105-157-166J and the Lincoln county portion of common school district 167-202), Pend Oreille, Spokane, Stevens and Whitman;

(18) The eighteenth district shall encompass the counties of Adams and Grant, and that portion of Lincoln county comprising consolidated school district 105-157-166J and common school district 167-202;

(19) The nineteenth district shall encompass the counties of Benton and Franklin;

(20) The twentieth district shall encompass the counties of Asotin, Columbia, Garfield and Walla Walla;

(21) The twenty-first district shall encompass Whatcom county;

(22) The twenty-second district shall encompass the present boundaries of the common school districts of Tacoma and Peninsula, Pierce county. [1973 1st ex.s. c 46 § 7; 1969 ex.s. c 223 § 28B.50.040. Prior: 1967 ex.s. c 8 § 4. Formerly RCW 28.85.040.]

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

28B.50.050 State board for community college education—Created—Members—Appointment—Terms—Qualifications—Travel expenses—

Removal. There is hereby created the "state board for community college education", to consist of seven members, one from each congressional district, who shall be appointed by the governor, with the consent of the senate. The successors of the members initially appointed shall be appointed for terms of four years except that any persons appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of such term. Each member shall serve until the appointment and qualification of his successor. All members shall be citizens and bona fide residents of the state. No member of the college board shall be, during his term of office, also a member of the state board of education, a member of a K-12 board, a member of the governing board of any public or private educational institution, a member of a community college board of trustees, or an employee of any of the above boards, or have any direct pecuniary interest in education within this state.

No member of the college board shall receive any salary for his services, but shall receive reimbursement for travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended for each day actually spent in attending to his duties as a member of the college board.

The members of the college board may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office, in the manner provided by RCW 28B.10.500. [1975-'76 2nd ex.s. c 34 § 74; 1973 c 62 § 13; 1969 ex.s. c 261 § 19; 1969 ex.s. c 223 § 28B.50.050. Prior: 1967 ex.s. c 8 § 5. Like section formerly RCW 28.85.050.]

Effective date—**Severability**—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Savings—**Severability**—1973 c 62: See notes following RCW 28B.10.200.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Appointment of director of state system of community colleges, by: RCW 28B.50.060.

Delegation of board powers to director of state system of community colleges: RCW 28B.50.060.

Employees of, appointment and employment of: RCW 28B.50.060.

Executive officer of and secretary: RCW 28B.50.060.

Powers and duties generally: RCW 28B.50.090.

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 travel expenses—Duties. A director of the state system of community colleges shall be appointed by the college board and shall serve at the pleasure of the college board. He shall be appointed with due regard to his fitness and background in education, by his knowledge of and recent practical experience in the field of educational administration particularly in institutions beyond the high school level. The college board may also take into consideration an applicant's proven management background even though not particularly in the field of education.

The director shall devote his time to the duties of his office and shall not have any direct pecuniary interest in or any stock or bonds of any business connected with or

selling supplies to the field of education within this state, in keeping with chapter 42.18 RCW, the executive conflict of interest act.

He shall receive a salary to be fixed by the college board and shall be reimbursed for travel expenses incurred by him in the discharge of his official duties in accordance with RCW 43.03.050 and 43.03.060, as now existing or hereafter amended.

He shall be the executive officer of the college board and serve as its secretary and under its supervision shall administer the provisions of this chapter and the rules, regulations and orders established thereunder and all other laws of the state. He shall attend, but not vote at, all meetings of the college board. He shall be in charge of offices of the college board and responsible to the college board for the preparation of reports and the collection and dissemination of data and other public information relating to the state system of community colleges. At the direction of the college board, he shall, together with the chairman of the college board, execute all contracts entered into by the college board.

The director shall, with the approval of the college board: (1) Employ necessary assistant directors of major staff divisions who shall serve at his pleasure on such terms and conditions as he determines, and (2) subject to the provisions of chapter 28B.16 RCW, the higher education personnel law, the director shall, with the approval of the college board, appoint and employ such field and office assistants, clerks and other employees as may be required and authorized for the proper discharge of the functions of the college board and for whose services funds have been appropriated.

The board may, by written order filed in its office, delegate to the director any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised by the director in the name of the college board. [1975-'76 2nd ex.s. c 34 § 75; 1973 1st ex.s. c 46 § 8; 1973 c 62 § 14; 1969 ex.s. c 261 § 20; 1969 ex.s. c 223 § 28B.50.060. Prior: 1967 ex.s. c 8 § 6. Like section formerly RCW 28.85.060.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

Severability—1973 1st ex.s. c 46: See note following RCW 28B.10.704.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

State-wide student aid advisory committee, appointment by director: RCW 28B.15.530.

Vocational education, director's duties relating to: Chapter 28C.04 RCW.

28B.50.070 College board—Organization—Meetings—Quorum—Annual report—Fiscal year. The governor shall, within thirty days after April 3, 1967, make the appointments to the college board.

The college board shall, within thirty days after its appointment, organize, adopt a seal, and adopt bylaws for its administration, not inconsistent herewith, as it may deem expedient and may from time to time amend such bylaws. At such organizational meeting it shall

elect from among its members a chairman and a vice chairman, each to serve for one year, and annually thereafter shall elect such officers; all to serve until their successors are appointed and qualified. The college board shall at its initial meeting fix a date and place for its regular meeting. Four members shall constitute a quorum, and no meeting shall be held with less than a quorum present, and no action shall be taken by less than a majority of the college board.

Special meetings may be called as provided by its rules and regulations. Regular meetings shall be held at the college board's established offices in Olympia, but whenever the convenience of the public or of the parties may be promoted, or delay or expenses may be prevented, it may hold its meetings, hearings or proceedings at any other place designated by it. The college board shall transmit a report in writing to the governor before December 1st of each year which report shall contain a summary of its proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue and all expenditures made by or on behalf of the college board, such other information as it may deem necessary or useful and any other additional information which may be requested by the governor. The fiscal year of the college board shall conform to the fiscal year of the state. [1973 c 62 § 15; 1969 ex.s. c 223 § 28B.50.070. Prior: 1967 ex.s. c 8 § 7. Formerly RCW 28.85.070.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.50.080 College board—Offices and office equipment, including necessary expenses. Suitable offices and office equipment shall be provided by the state for the college board in the city of Olympia, and the college board may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the administration of this chapter. [1969 ex.s. c 223 § 28B.50.080. Prior: 1967 ex.s. c 8 § 8. Formerly RCW 28.85.080.]

28B.50.090 College board—Powers and duties generally. The college board shall have general supervision and control over the state system of community colleges. In addition to the other powers and duties imposed upon the college board by this chapter, the college board shall be charged with the following powers, duties and responsibilities:

(1) Review the budgets prepared by the community college boards of trustees, prepare a single budget for the support of the state system of community colleges and adult education, and submit this budget to the governor as provided in RCW 43.88.090; the coordinating council shall assist with the preparation of the community college budget that has to do with vocational education programs;

(2) Establish guidelines for the disbursement of funds; and receive and disburse such funds for adult education and maintenance and operation and capital support of the community college districts in conformance with the state and district budgets, and in conformance with chapter 43.88 RCW;

(3) Ensure, through the full use of its authority:

(a) that each community college district shall offer thoroughly comprehensive educational, training and service programs to meet the needs of both the communities and students served by combining, with equal emphasis, high standards of excellence in academic transfer courses; realistic and practical courses in occupational education, both graded and ungraded; and community services of an educational, cultural, and recreational nature; and adult education: *Provided*, That notwithstanding any other provisions of this chapter, a community college shall not be required to offer a program of vocational-technical training, when such a program as approved by the coordinating council for occupational education is already operating in the district;

(b) that each community college district shall maintain an open-door policy, to the end that no student will be denied admission because of the location of his residence or because of his educational background or ability; that, insofar as is practical in the judgment of the college board, curriculum offerings will be provided to meet the educational and training needs of the community generally and the students thereof; and that all students, regardless of their differing courses of study, will be considered, known and recognized equally as members of the student body: *Provided*, That the administrative officers of a community college may deny admission to a prospective student or attendance to an enrolled student if, in their judgment, he would not be competent to profit from the curriculum offerings of the community college, or would, by his presence or conduct, create a disruptive atmosphere within the community college not consistent with the purposes of the institution;

(4) Prepare a comprehensive master plan for the development of community college education and training in the state; and assist the office of program planning and fiscal management in the preparation of enrollment projections to support plans for providing adequate community college facilities in all areas of the state;

(5) Define and administer criteria and guidelines for the establishment of new community colleges or campuses within the existing districts;

(6) Establish criteria and procedures for modifying district boundary lines consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended and in accordance therewith make such changes as it deems advisable;

(7) Establish minimum standards to govern the operation of the community colleges with respect to:

(a) qualifications and credentials of instructional and key administrative personnel, except as otherwise provided in the state plan for vocational education,

(b) internal budgeting, accounting, auditing, and financial procedures as necessary to supplement the general requirements prescribed pursuant to chapter 43.88 RCW,

(c) the content of the curriculums and other educational and training programs, and the requirements, degrees and diplomas awarded by the colleges,

(d) standard admission policies;

(8) Establish and administer criteria and procedures for all capital construction including the establishment,

installation, and expansion of facilities within the various community college districts;

(9) Encourage innovation in the development of new educational and training programs and instructional methods; coordinate research efforts to this end; and disseminate the findings thereof;

(10) Exercise any other powers, duties and responsibilities necessary to carry out the purposes of this chapter;

(11) Authorize the various community colleges to offer programs and courses in other districts when it determines that such action is consistent with the purposes set forth in RCW 28B.50.020 as now or hereafter amended;

(12) Notwithstanding any other law or statute regarding the sale of state property, sell or exchange and convey any or all interest in any community college real and personal property when it determines that such property is surplus or that such a sale or exchange is in the best interests of the community college system.

The college board shall have the power of eminent domain. [1973 c 62 § 16; 1969 ex.s. c 261 § 21; 1969 ex.s. c 223 § 28B.50.090. Prior: 1967 ex.s. c 8 § 9. Like section formerly RCW 28.85.090.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Construction, reconstruction, equipping facilities—Financing: RCW 28B.50.340.

Coordinating council for occupational education, membership on: RCW 28B.50.170.

Development of budget: RCW 43.88.090.

Eminent domain: Title 8 RCW.

"Needy students", state board to establish criteria for trustees' determination of applicants as—Limitation: RCW 28B.15.525.

State budget and accounting system: Chapter 43.88 RCW.

State census board powers and duties transferred to planning and community affairs agency: RCW 43.63A.080.

Waiver of tuition and fees for needy and disadvantaged students: RCW 28B.15.530.

28B.50.091 College board—Board to permit waiver of fees for students finishing their high school education. See RCW 28B.15.520.

28B.50.092 College board—Program for military personnel—Restrictions as to high school completion program. The state board for community college education may authorize any community college board of trustees to do all things necessary to conduct an education, training, and service program authorized by chapter 28B.50 RCW, as now or hereafter amended, for United States military personnel at any geographical location: *Provided*, That any high school completion program conducted pursuant to this section shall comply with standards set forth in rules and regulations promulgated by the superintendent of public instruction and the state board of education: *And provided further*, That the superintendent of public instruction shall issue the certificate or diploma in recognition of high school completion education provided pursuant to this section. [1973 c 105 § 1.]

Adult high school completion programs, authority to conduct: RCW 28C.04.110.

28B.50.093 College board—Program for military personnel—Limitation. Prior to the state board granting authorization for any programs authorized under RCW 28B.50.092, the state board shall determine that such authorization will not deter from the primary functions of the community college system within the state of Washington as prescribed by chapter 28B.50 RCW. [1973 c 105 § 2.]

28B.50.094 College board—Program for military personnel—Costs of funding. The costs of funding programs authorized by RCW 28B.50.092 through 28B.50.094 shall ultimately be borne by grants or fees derived from nonstate treasury sources. [1973 c 105 § 3.]

28B.50.095 College board—Registration at more than one community college, rules for. In addition to other powers and duties, the college board may issue rules and regulations permitting a student to register at more than one community college, provided that such student shall pay tuition and fees as if he were registered at a single college, but not to exceed tuition and fees charged a full-time student as established by RCW 28B.15.500. [1973 c 129 § 1.]

28B.50.100 Community college boards of trustees—Created—Members—Appointment—Terms—Qualifications—Restrictions on other service—Chairman, election of—Seal—Bylaws, rules and regulations—Quorum—Secretary. There is hereby created a community college board of trustees for each community college district as set forth in this chapter. Each community college board of trustees shall be composed of five trustees, who shall be appointed by the governor. In making such appointments the governor shall give consideration to geographical exigencies, and the interests of labor, industry, agriculture, the professions and ethnic groups.

The successors of the trustees initially appointed shall be appointed by the governor to serve for a term of five years except that any person appointed to fill a vacancy occurring prior to the expiration of any term shall be appointed only for the remainder of the term.

Every trustee shall be a resident and qualified elector of his community college district. No trustee may be an employee of the community college system, a member of the board of directors of any school district, a member of the governing board of any public or private educational institution, or an elected officer or member of the legislative authority of any municipal corporation.

Each board of trustees shall organize itself by electing a chairman from its members. The board shall adopt a seal and may adopt such bylaws, rules and regulations as it deems necessary for its own government. Three members of the board shall constitute a quorum, but a lesser number may adjourn from time to time and may compel the attendance of absent members in such manner as prescribed in its bylaws, rules, or regulations. The district president, or if there be none, the president of the

community college, shall serve as, or may designate another person to serve as, the secretary of the board, who shall not be deemed to be a member of the board. [1973 c 62 § 17; 1969 ex.s. c 261 § 22; 1969 ex.s. c 223 § 28B.50.100. Prior: 1967 ex.s. c 8 § 10. Like section formerly RCW 28.85.100.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

Chief executive officer as secretary of board: RCW 28B.50.130.

28B.50.130 Community college boards of trustees—Organization—Bylaws, rules and regulations—Chairman, vice chairman, election and term—Secretary—Quorum—Annual report—Fiscal year. Within thirty days of their appointment or July 1, 1967, whichever is sooner, the various district boards of trustees shall organize, adopt bylaws for its own government, and make such rules and regulations not inconsistent with this chapter as they deem necessary. At such organizational meeting it shall elect from among its members a chairman and a vice chairman, each to serve for one year, and annually thereafter shall elect such officers to serve until their successors are appointed or qualified. The chief executive officer of the community college district, or his designee, shall serve as secretary of the board. Three trustees shall constitute a quorum, and no action shall be taken by less than a majority of the trustees of the board. The district boards shall transmit a report in writing to the college board before October 1st of each year which report shall contain a summary of its proceedings during the preceding fiscal year, a detailed and itemized statement of all revenue and all expenditures made by or on behalf of the district boards, such other information as it may deem necessary or useful, and any other additional information which may be requested by the college board. The fiscal year of the district boards shall conform to the fiscal year of the state. [1973 c 62 § 18; 1969 ex.s. c 223 § 28B.50.130. Prior: 1967 ex.s. c 8 § 13. Formerly RCW 28.85.130.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

District president or president of community college as secretary of board: RCW 28B.50.100.

Fiscal year defined: RCW 1.16.030, 43.86.140.

28B.50.140 Community college boards of trustees—Powers and duties. Each community college board of trustees:

- (1) Shall operate all existing community colleges and vocational-technical institutes in its district;
- (2) Shall create comprehensive programs of community college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3);
- (3) Shall employ for a period to be fixed by the board a college president for each community college, a director for each vocational-technical institute or school operated by a community college, a district president, if deemed necessary by the board, in the event there is

more than one college and/or separated institute or school located in the district, members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand;

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community college programs as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the community college district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the

community college or colleges under its control, and notwithstanding any other provision of law, publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate;

(13) Shall enforce the rules and regulations prescribed by the state board for community college education for the government of community colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations of the state board for community college education as the board of trustees may in its discretion deem necessary or appropriate to the administration of community college districts: *Provided*, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships, conduct at the various community college facilities, and discipline: *Provided, further*, That the board of trustees may suspend or expel from community colleges students who refuse to obey any of the duly promulgated rules and regulations;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; and

(17) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board. [1973 c 62 § 19; 1970 ex.s. c 15 § 17. Prior: 1969 ex.s. c 283 § 30; 1969 ex.s. c 261 § 23; 1969 ex.s. c 223 § 28B.50.140; prior: 1967 ex.s. c 8 § 14. Like section formerly RCW 28.85.140.]

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

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

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

"Needy students", trustees' determination of applicants as: RCW 28B.15.520–28B.15.525.

Waiver of tuition and fees for needy and disadvantaged students: RCW 28B.15.530.

28B.50.145 Community college or vocational-technical institute faculty senate. The boards of trustees of the various community college districts are hereby directed to create no later than January 1, 1970 at each community college or vocational-technical institute under their control a faculty senate or similar organization to be selected by periodic vote of the respective faculties thereof. [1969 ex.s. c 283 § 51. Formerly RCW 28.85.145.]

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

28B.50.150 Out-of-district residence not to affect enrollment for state resident. Any resident of the state may enroll in any program or course maintained or conducted by a community college district upon the same terms and conditions regardless of the district of his residence. [1969 ex.s. c 223 § 28B.50.150. Prior: 1967 ex.s. c 8 § 15. Formerly RCW 28.85.150.]

28B.50.250 Adult education programs in common school districts, limitations——Certain federal programs, administration. The state board for community college education and the state board of education are hereby authorized to permit, on an ad hoc basis, the common school districts to conduct pursuant to RCW 28B.50.530 a program in adult education in behalf of a community college district when such program will not conflict with existing programs of the same nature and in the same geographical area conducted by the community college districts: *Provided*, That federal programs for adult education which are funded directly to the state board of education shall be administered by the superintendent of public instruction in cooperation with the director of the state board for community college education. [1969 ex.s. c 261 § 25; 1969 ex.s. c 223 § 28B.50.250. Prior: 1967 ex.s. c 8 § 25. Like section formerly RCW 28.85.250.]

Severability——1969 ex.s. c 261: See note following RCW 28B.50.020.

Community education programs: RCW 28A.58.247.

28B.50.270 Vocational education in public schools——Acceptance of federal act. See RCW 28C.04.200.

28B.50.280 Vocational education in public schools——Custodian of special appropriations. See RCW 28C.04.210.

28B.50.290 Vocational education in public schools——Custodian of schools. See RCW 28C.04.220.

28B.50.300 Title to or all interest in real estate, choses in action and assets obtained for community college or vocational educational purposes by school districts to pass, when——Exceptions—**Procedure—** Appeals. Title to or all interest in real estate, choses in action and all other assets, including but not limited to assignable contracts, cash, deposits in county funds (including any interest or premiums thereon), equipment, buildings, facilities, and appurtenances thereto held as of the date of passage of this act by or for a school district and obtained identifiably with federal, state or local funds appropriated for community college purposes or post-high school vocational educational purposes, or used or obtained with funds budgeted for community college purposes or post-high school vocational educational purposes, or used or obtained primarily for community college or vocational educational purposes, shall, on the date on which the first board of trustees of each district takes office, vest in or be assigned to the state board for community college education: *Provided*, That cash, funds, accounts or other deposits obtained or raised by a school district to pay for indebtedness,

bonded or otherwise, contracted on or before April 3, 1967 for community college purposes shall remain with and continue to be, after April 3, 1967, an asset of the school district: *And provided further*, That any option acquired by the school district to purchase real property which in the judgment of the school district will be used in the common school program may remain with the school district notwithstanding that such option was obtained in consideration of the purchase by such school district of other property for community college purposes: *And provided further*, That unexpended funds of a common school district derived from the sale, prior to July 1, 1967, of bonds authorized for any purpose which includes community college purposes and not committed for any existing construction contract, shall remain with and continue to be an asset of such common school district, unless within thirty days after said date such common school district determines to transfer such funds to the board of trustees.

For the purposes of this section and to facilitate the process of allocating the assets, the board of directors of each school district in which a community college is located, and the president of each community college, shall each submit to the state board of education, and the state board for community college education within sixty days of April 3, 1967, an inventory listing all real estate, personal property, choses in action, and other assets, held by a school district, which under the criteria of this section, will become the assets of the state board for community college education: *Provided*, That assets used "primarily" for community college purposes shall include, but not be limited to, all assets currently held by school districts which have been used on an average of at least seventy-five percent of the time during the school year 1965-1966, or if acquired subsequent to July 1, 1966, since its time of acquisition, for community college purposes: *Provided, further*, That the ultimate decision and approval with respect to the allocation and disposition of the assets under this section shall be made by the governor, or an advisory committee appointed by him for that purpose. The decision of the governor or his advisory committee may be appealed within sixty days after such decision is issued by appealing to the district court of Thurston county. The decision of the superior court may be appealed to the supreme court or the court of appeals of the state in accordance with the provision of the Administrative Procedure Act, chapter 34.04 RCW. [1971 c 81 § 73; 1969 ex.s. c 223 § 28B.50.300. Prior: 1967 ex.s. c 8 § 30. Formerly RCW 28.85.300.]

Reviser's note: "the date of passage of this act" as used herein refers to chapter 8, Laws of 1967 ex.s. (SHB 548) which passed the house and senate on March 24, 1967, was approved by the governor April 3, 1967, and, as the measure carried an emergency section, became effective April 3, 1967.

28B.50.310 Community college fees. See chapter 28B.15 RCW.

28B.50.320 Community college fees——Fees deposited—**Audit of—**—**Depository, requirements of—**—**Disbursement—**—**Surety bonds for persons authorized to sign checks.** All operating fees, services and activities

fees, and all other income which the trustees are authorized to impose shall be deposited as the trustees may direct unless otherwise provided by law. Such sums of money shall be subject to the budgetary and audit provisions of law applicable to state agencies. The depository selected by the trustees shall conform to the collateral requirements required for deposit of other state funds.

Disbursement shall be made by check signed by the president of the community college or his designee appointed in writing, and such other person as may be designated by the board of trustees of the community college district. Each person authorized to sign as provided above, shall execute a surety bond as provided in RCW 43.17.100. Said bond or bonds shall be filed in the office of the secretary of state. [1971 ex.s. c 279 § 17; 1970 ex.s. c 59 § 4; 1969 ex.s. c 238 § 5; 1969 ex.s. c 223 § 28B.50.320. Prior: 1967 ex.s. c 8 § 32. Like section formerly RCW 28.85.320.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: See note following RCW 28B.15.520.

28B.50.330 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property therefor—Authorized—Financing by revenue bonds—Bid procedure. The boards of trustees of community college districts are empowered in accordance with the provisions of this chapter to provide for the construction, reconstruction, erection, equipping, demolition and major alterations of buildings and other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances for the use of the aforementioned colleges as authorized by the college board in accordance with RCW 28B.50.140; to be financed by bonds payable out of special funds from revenues hereafter derived from income received from such facilities, gifts, bequests or grants, and such additional funds as the legislature may provide, and payable out of a bond retirement fund to be established by the respective district boards in accordance with rules and regulations of the state board. With respect to building, improvements or repairs, or other work, the trustees shall have and be subject to the same powers or duties as are authorized and imposed upon school directors by the provisions of RCW 28A.58.135 as now or hereafter amended. [1969 ex.s. c 223 § 28B.50.330. Prior: 1967 ex.s. c 8 § 33. Formerly RCW 28.85.330.]

28B.50.340 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property therefor—Financing by bonds secured by pledge of general tuition fees, grants. In addition to the powers conferred under RCW 28B.50.090, the community college state board is authorized and shall have the power:

(1) To permit the district boards of trustees to contract for the construction, reconstruction, erection, equipping, maintenance, demolition and major alterations of buildings and other capital assets, and the

acquisition of sites, rights-of-way, easements, improvements or appurtenances of the college as approved by the community college state board.

(2) To finance the same by the issuance of bonds secured by the pledge of up to one hundred percent of the general tuition fees.

(3) Without limitation of the foregoing, to accept grants from the United States government, or any federal or state agency or instrumentality, or private corporation, association, or person to aid in defraying the costs of any such projects.

(4) To retain bond counsel and professional bond consultants to aid it in issuing bonds pursuant to RCW 28B.50.340 through 28B.50.400. [1971 ex.s. c 279 § 18; 1970 ex.s. c 15 § 18. Prior: 1969 ex.s. c 261 § 26; 1969 ex.s. c 238 § 6; 1969 ex.s. c 223 § 28B.50.340; prior: 1967 ex.s. c 8 § 34. Like section formerly RCW 28.85.340.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 15: See note following RCW 28A.02.070.

28B.50.350 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property therefor—Bonds—Form, term, issuance, sale, payment of principal and interest on, disposition of proceeds from sale of. For the purpose of financing the cost of any projects, the college board is hereby authorized to adopt the resolution or resolutions and prepare all other documents necessary for the issuance, sale and delivery of the bonds or any part thereof at such time or times as it shall deem necessary and advisable. Said bonds:

(1) Shall not constitute

(a) an obligation, either general or special, of the state; or

(b) a general obligation of the college or of the college board;

(2) Shall be

(a) either registered or in coupon form; and

(b) issued in denominations of not less than one hundred dollars; and

(c) fully negotiable instruments under the laws of this state; and

(d) signed on behalf of the college board with the manual or facsimile signature of the chairman of the board, attested by the secretary of the board, have the seal of the college board impressed thereon or a facsimile of such seal printed or lithographed in the bottom border thereof, and the coupons attached thereto shall be signed with the facsimile signatures of such chairman and the secretary;

(3) Shall state

(a) the date of issue; and

(b) the series of the issue and be consecutively numbered within the series; and

(c) that the bond is payable both principal and interest solely out of the bond retirement fund created for retirement thereof;

(4) Each series of bonds shall bear interest, payable either annually or semiannually, as the board may determine;

(5) Shall be payable both principal and interest out of the bond retirement fund;

(6) Shall be payable at such times over a period of not to exceed forty years from date of issuance, at such place or places, and with such reserved rights of prior redemption, as the board may prescribe;

(7) Shall be sold in such manner and at such price as the board may prescribe;

(8) Shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal thereof and interest thereon and such other terms, conditions, covenants and protective provisions safeguarding such payment, not inconsistent with RCW 28B.50.330 through 28B.50.400, and as found to be necessary by the board for the most advantageous sale thereof, which may include but not be limited to:

(a) A covenant that a reserve account shall be created in the bond retirement fund to secure the payment of the principal of and interest on all bonds issued and a provision made that certain amounts be set aside and maintained therein;

(b) A covenant that sufficient moneys may be transferred from the capital projects account of the college board issuing the bonds to the bond retirement fund of the college board when ordered by the board in the event there is ever an insufficient amount of money in the bond retirement fund to pay any installment of interest or principal and interest coming due on the bonds or any of them;

(c) A covenant fixing conditions under which bonds on a parity with any bonds outstanding may be issued.

The proceeds of the sale of all bonds, exclusive of accrued interest which shall be deposited in the bond retirement fund, shall be deposited in the state treasury to the credit of the capital projects account of the college board and shall be used solely for paying the costs of the projects, the costs of bond counsel and professional bond consultants incurred in issuing the bonds, and for the purposes set forth in (8)(b) above;

(9) Shall constitute a prior lien and charge against all general tuition fees of the community colleges. [1971 ex.s. c 279 § 19; 1971 c 8 § 2; 1970 ex.s. c 59 § 2; 1970 ex.s. c 56 § 32; 1970 ex.s. c 15 § 19; 1969 ex.s. c 261 § 27; 1969 ex.s. c 232 § 106; 1969 ex.s. c 223 § 28B.50.350. Prior: 1967 ex.s. c 8 § 35. Like section formerly RCW 28.50.350.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

Severability—1970 ex.s. c 59: See note following RCW 28B.15.520.

28B.50.360 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property therefor—Community college bond retirement fund created, use—Community college capital projects account created, use—Disposition of general tuition fees. There is hereby created in the state treasury a community college bond retirement fund. Within thirty-five days from the date of start of each

quarter all general tuition fees of each such community college shall be paid into the state treasury, and shall be credited as follows:

(1) On or before June 30th of each year the college board if issuing bonds payable out of general tuition fees shall certify to the state treasurer the amounts required in the ensuing twelve-month period to pay and secure the payment of the principal of and interest on such bonds. The state treasurer shall thereupon deposit the amounts so certified in the community college bond retirement fund which fund as required, is hereby created in the state treasury. Such amounts of the funds deposited in the bond retirement fund as are necessary to pay and secure the payment of the principal of and interest on the tuition fee bonds issued by the college board as authorized by this chapter shall be exclusively devoted to that purpose. If in any twelve-month period it shall appear that the amount certified by the college board is insufficient to pay and secure the payment of the principal of and interest on the outstanding general tuition fee bonds, the state treasurer shall notify the college board and such board shall adjust its certificate so that all requirements of moneys to pay and secure the payment of the principal and interest on all such bonds then outstanding shall be fully met at all times.

(2) That portion of the general tuition fees not required for or in excess of the amounts necessary to pay and secure the payment of any of the bonds as provided in subsection (1) above shall be deposited in the community college capital projects account which account is hereby created in the general fund of the state treasury. The sums deposited in the capital projects account shall be appropriated and expended exclusively for 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, and for the payment of principal of and interest on any bonds issued for such purposes.

(3) Notwithstanding the provisions of subsections (1) and (2) above, at such time as all outstanding tuition fee bonds of the college board payable from the community college bond retirement fund have been paid, redeemed, and retired, or at such time as ample provision has been made by the state for full payment, from some source other than the community college bond retirement fund, of the principal of and the interest on and call premium, if applicable, of such bonds as they mature and/or upon their call prior to their maturity, through refunding or otherwise, that portion of all general tuition fees of the community colleges equal to the amount required to pay yearly debt service on any general obligation bonds issued by the state in accordance with Article VIII, section 1, Washington state Constitution, for community college purposes, shall be paid into the general fund of the state treasury. The state finance committee shall determine whether ample provision has been made for payment of such bonds payable from the said bond retirement fund and shall determine the amount

required to pay yearly debt service on such general obligation bonds of the state. Nothing in this subsection shall be construed as obligating the legislature or the state to provide for payment of such community college tuition fee bonds from some source other than the community college bond retirement fund or as pledging the general credit of the state to the payment of such bonds. [1974 ex.s. c 112 § 4; 1971 ex.s. c 279 § 20; 1970 ex.s. c 15 § 20. Prior: 1969 ex.s. c 261 § 28; 1969 ex.s. c 238 § 7; 1969 ex.s. c 223 § 28B.50.360; prior: 1967 ex.s. c 8 § 36. Like section formerly RCW 28.85.360.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.50.370 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property therefor—Bonds—Sources for payment of principal and interest on—Funds credited to bond retirement fund—Pledge to collect general tuition fees. For the purpose of paying and securing the payment of the principal of and interest on the bonds as the same shall become due, there shall be paid into the state treasury and credited to the bond retirement fund of the state board for community college education, the following:

(1) Amounts derived from general tuition fees as are necessary to pay the principal of and interest on the bonds and to secure the same;

(2) Any grants which may be made, or may become available for the purpose of furthering the construction of any authorized projects, or for the repayment of the costs thereof;

(3) Such additional funds as the legislature may provide.

Said bond retirement fund shall be kept segregated from all moneys in the state treasury and shall, while any of such bonds or any interest thereon remains unpaid, be available solely for the payment thereof. As a part of the contract of sale of such bonds, the college board shall charge and collect general tuition fees as established by this chapter and deposit such fees in the bond retirement fund in amounts which will be sufficient to pay and secure the payment of the principal of, and interest on all such bonds outstanding. [1971 ex.s. c 279 § 21; 1969 ex.s. c 238 § 8; 1969 ex.s. c 223 § 28B.50.370. Prior: 1967 ex.s. c 8 § 37. Like section formerly RCW 28.85.370.]

Severability—1971 ex.s. c 279: See note following RCW 28B.15.005.

28B.50.380 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property therefor—Bonds—Additional powers incident to bond authorization. In accordance with the provisions of RCW 28B.50.340 the college board is hereby empowered:

(1) To reserve the right to issue bonds later on a parity with any bonds being issued;

(2) To authorize the investing of moneys in the bond retirement fund and any reserve account therein;

(3) To authorize the transfer of money from the college board's capital projects account to the bond retirement fund when necessary to prevent a default in the payments required to be made; and

(4) To create a reserve account or accounts in the bond retirement fund to secure the payment of the principal of and interest on any bonds. [1969 ex.s. c 223 § 28B.50.380. Prior: 1967 ex.s. c 8 § 38. Formerly RCW 28.85.380.]

28B.50.390 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property therefor—Refunding bonds—Authorized—Form, term, issuance, etc.—Exchange or sale. The college board is hereby empowered to issue refunding bonds to provide funds to refund any or all outstanding bonds payable from the bond retirement fund and to pay any redemption premium payable on such outstanding bonds being refunded. Such refunding bonds may be issued in the manner and on terms and conditions and with the covenants permitted by RCW 28B.50.330 through 28B.50.400 for the issuance of bonds. The refunding bonds shall be payable out of the bond retirement fund and shall not constitute an obligation either general or special, of the state or a general obligation of the college board. The board may exchange the refunding bonds at par for the bonds which are being refunded or may sell them in such manner, at such price and at such rate or rates of interest as it deems for the best interest of the college. [1970 ex.s. c 56 § 33; 1969 ex.s. c 232 § 107; 1969 ex.s. c 223 § 28B.50.390. Prior: 1967 ex.s. c 8 § 39. Like section formerly RCW 28.85.390.]

Purpose—**Effective date**—1970 ex.s. c 56: See notes following RCW 39.44.030.

Validation—**Saving**—**Severability**—1969 ex.s. c 232: See notes following RCW 39.44.030.

28B.50.400 Construction, reconstruction, equipping and demolition of community college facilities and acquisition of property therefor—Bonds as limited obligation bonds—Additional means to pay principal and interest on. The bonds authorized to be issued pursuant to the provisions of RCW 28B.50.330 through 28B.50.400 shall not be general obligations of the state of Washington, but shall be limited obligation bonds payable only from the special funds created for their payment. The legislature may specify additional means for providing funds for the payment of principal and interest of said bonds. RCW 28B.50.330 through 28B.50.400 shall not be deemed to provide an exclusive method for such payment. The power given to the legislature by this section to provide for additional means for raising money is permissive, and shall not in any way be construed as a pledge of the general credit of the state of Washington. [1969 ex.s. c 223 § 28B.50.400. Prior: 1967 ex.s. c 8 § 40. Formerly RCW 28.85.400.]

28B.50.403 Refunding bonds—Authorized—Limitations. The state of Washington is hereby authorized to issue state general obligation bonds for the purpose of refunding any outstanding general tuition fee,

limited obligation bonds of the college board issued pursuant to this chapter in an amount not exceeding 1.05 times the amount which, taking into account amounts to be earned from the investment of the proceeds of the issue, is required to pay the principal thereof, interest thereon, any premium payable with respect thereto, and the costs incurred in accomplishing such refunding: *Provided*, That any proceeds of the refunding bonds in excess of those required to accomplish such refunding, or any obligations acquired with such excess proceeds, shall be applied exclusively for the payment of principal, interest, or call premiums with respect to such refunding obligations. In no event shall the amount of such refunding bonds authorized in this section exceed seventy-five million dollars. [1974 ex.s. c 112 § 1.]

Severability—1974 ex.s. c 112: "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." [1974 ex.s. c 112 § 9.] This applies to RCW 28B.50.360, 28B.50.403, 28B.50.404, 28B.50.405, 28B.50.406, 28B.50.407 and 28B.50.409.

28B.50.404 Refunding bonds—Issuance, law applicable—Security. Subject to the specific provisions of RCW 28B.50.360 and 28B.50.403 through 28B.50.407, such general obligation refunding bonds shall be issued and the refunding of said community college tuition fee bonds shall be carried out pursuant to chapters 39.42 and 39.53 RCW as now or hereafter amended. The bonds shall pledge the full faith and credit of the state of Washington and contain an unconditional promise of the state to pay the principal thereof and interest thereon when due. [1974 ex.s. c 112 § 2.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.405 Refunding bonds—Community college refunding bond retirement fund of 1974 created, use. There is hereby created in the state treasury the community college refunding bond retirement fund of 1974, which fund shall be exclusively devoted to the payment of the principal of and interest on the refunding bonds authorized by RCW 28B.50.360 and 28B.50.403 through 28B.50.407.

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 pay the principal of and interest on such bonds. On July 1st of each year the state treasurer shall deposit such amount in the community college refunding bond retirement fund of 1974 from any general state revenues received in the state treasury. [1974 ex.s. c 112 § 3.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.406 Refunding bonds—Legislature may provide additional means of payments. The legislature may provide additional means for raising moneys for the payment of the interest and principal of the bonds authorized in RCW 28B.50.360 and 28B.50.403 through 28B.50.407 and RCW 28B.50.360 and 28B.50.403 through 28B.50.407 shall not be deemed to provide an

exclusive method for such payment. [1974 ex.s. c 112 § 5.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.407 Refunding bonds—Bonds legal investment for public funds. The bonds authorized in RCW 28B.50.360 and 28B.50.403 through 28B.50.407 shall be a legal investment for all state funds or for funds under state control and all funds of municipal corporations. [1974 ex.s. c 112 § 6.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.409 Bonds, committee advice and consent prerequisite to issuance. All bonds issued after February 16, 1974 by the college board or any community college board of trustees for any community college district under provisions of chapter 28B.50 RCW, as now or hereafter amended, shall be issued by such boards only upon the prior advice and consent of the state finance committee. [1974 ex.s. c 112 § 7.]

Severability—1974 ex.s. c 112: See note following RCW 28B.50.403.

28B.50.410 Vocational rehabilitation services for handicapped persons—Definitions. See RCW 28A.10.010.

28B.50.420 Vocational rehabilitation services for handicapped persons—Powers and duties of state agency. See RCW 28A.10.020.

28B.50.430 Vocational rehabilitation services for handicapped persons—Acceptance of federal aid. See RCW 28A.10.050 and 28A.10.055.

28B.50.440 Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds. If any part of this chapter shall be found to be in conflict with federal requirements which are a condition precedent to the allocation of federal funds to the state, such conflicting part of this chapter is hereby declared to be inoperative solely to the extent of such conflict, and such findings or determination shall not affect the operation of the remainder of this chapter. [1969 ex.s. c 223 § 28B.50.440. Prior: 1967 ex.s. c 8 § 44. Formerly RCW 28.85.440.]

Federal funds, receipt of authorized: See RCW 28B.50.520.

28B.50.450 Vocational rehabilitation services to be made available to state and public agencies. See RCW 28A.10.037.

28B.50.460 Purchase of vocational rehabilitation services for handicapped persons—Procedure—Post audit review. See RCW 28A.10.080.

28B.50.470 State civil service law—Definitions. See RCW 41.06.020.

28B.50.480 State civil service law—Exemptions. See RCW 41.06.070.

28B.50.490 Fiscal management—Powers and duties of officers and agencies. See RCW 43.88.160.

28B.50.500 General provisions for institutions of higher education. See Chapter 28B.10 RCW.

28B.50.510 State purchasing and material control, community college purchases. See RCW 43.19.190.

28B.50.520 Federal funds, receipt of authorized. The state board for community college education or any community college board of trustees is authorized to receive federal funds made available for the assistance of community colleges, and providing physical facilities, maintenance or operation of schools, or for any educational purposes, according to the provisions of the acts of congress making such funds available. [1969 ex.s. c 223 § 28B.50.520. Prior: 1967 ex.s. c 8 § 52. Formerly RCW 28.85.520.]

Construction of chapter when part thereof in conflict with federal requirements which are condition precedent to allocation of federal funds: RCW 28B.50.440.

28B.50.530 Agreements for use of services or facilities between district boards of trustees and school boards. The district boards of trustees and the common school boards are hereby authorized to enter into agreements for the use by either of the other's services, facilities or equipment and for the presentation of courses of either for students of the other where such agreements are deemed to be in the best interests of the education of the students involved. [1969 ex.s. c 223 § 28B.50.530. Prior: 1967 ex.s. c 8 § 53. Formerly RCW 28.85.530.]

Community education programs: RCW 28A.58.247.

28B.50.535 Community college may issue high school diploma or certificate, limitation. A community college may issue a high school diploma or certificate, subject to rules and regulations promulgated by the superintendent of public instruction and the state board of education. [1969 ex.s. c 261 § 30. Like section formerly RCW 28.85.535.]

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

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.50.570 Pension plans to continue for faculty and nonacademic personnel—Payments for—Option for new faculty. (1) When the college district boards assume administration[,] control and occupancy of the respective community colleges and vocational-technical institutes, the faculty and nonacademic personnel employed therein shall be deemed to remain an employee of the common school board for the purpose of any pension plan of such employees, and shall continue to be entitled to all rights and benefits thereunder as if they had remained employed by the common school board.

Until the legislature adopts a new pension plan for such employees, the district boards shall deduct from the remuneration of such employee the amount which such employee is or may be required to pay in accordance with the provisions of the pension plan of the Washington state teachers retirement system and the district boards shall pay to the retirement system any amounts required to be paid under the provisions of such plan by the employer and the employee.

(2) Faculty hired by the college district boards after April 3, 1967, who are members of a teachers' pension

plan in operation in the state of Washington or who are members of a nation-wide teachers' pension plan, may continue to retain membership in such plan if they so elect and if the election is not inconsistent with the regulations of such retirement plan.

Until the legislature adopts a new pension plan for such employees, the district boards shall deduct from the remuneration of such employee the amount which such employee is or may be required to pay in accordance with the provisions of the pension plan he has elected to continue and the college district boards shall pay to the pension plan any amounts required to be paid under the provisions of such plan by the employer and the employee. [1973 c 62 § 23; 1969 ex.s. c 223 § 28B.50.570. Prior: 1967 ex.s. c 8 § 57. Formerly RCW 28.85.570.]

Reviser's note: RCW 28B.50.570, 1969 ex. sess. c 223 § 28B.50.570, was repealed by 1973 1st ex.s. c 149 § 7, effective July 1, 1974, without reference to the 1973 c 62 § 23 amendment above. See RCW 28B.10.400 through 28B.10.420.

Savings—Severability—1973 c 62: See notes following RCW 28B.10.200.

28B.50.590 Sharing of single facility by community college program and K-12 program—Administration and control—Share of expenses, arbitration of. Whenever, prior to April 3, 1967, the use of a single building facility is being shared between an existing community college program and a K-12 program, hereafter the respective boards shall continue to share the use of the facility until such time as it is convenient to remove one of the two programs to another facility. The determination of convenience shall be based solely upon the best interests of the students involved.

Whenever a community college district board and a common school district board are sharing the use of a single facility, the program occupying the majority of the space of such facility, exclusive of space utilized equally by both, shall determine which board will be charged with the administration and control of such facility. The determination of occupancy shall be based upon the space occupied as of January 1, 1967.

The board which is charged with the administration and control of such facility may share expenses with the other board for the use of the facility.

In the event that the two boards are unable to agree upon which board is to administer and control the facility or upon a fair share of expenses for the use of the facility, the governor shall appoint an arbitrator to settle the matter. The decisions of the arbitrator shall be final and binding upon both boards. The expenses of the arbitration shall be divided equally by each board. [1969 ex.s. c 223 § 28B.50.590. Prior: 1967 ex.s. c 8 § 59. Formerly RCW 28.85.590.]

28B.50.600 School district bonds—Redemption of by school district to continue though facility under control of community college district board. Whenever a common school board has contracted to redeem general obligation bonds used for the construction or acquisition of facilities which are now to be under the administration, control and occupancy of the community college district board, the common school board shall continue

to redeem the bonds in accordance with the provisions of the bonds. [1969 ex.s. c 223 § 28B.50.600. Prior: 1967 ex.s. c 8 § 60. Formerly RCW 28.85.600.]

28B.50.610 Transfer of records, equipment or property and pending business of abolished agencies or agencies whose powers and duties transferred—Governor to settle disputes. In all cases where an existing office, board, commission, bureau, or department of the state is abolished by this chapter, or where the powers and duties vested in, and required to be performed by, any existing officer, board, commission, common school district board, bureau, or department, are transferred to, vested in and required to be performed by, an existing or a newly created department, council, district board, state board, or a state officer, all books, papers, maps, charts, plans, records, and all other equipment or property in the possession of such existing officer, board, commission, common school district board, bureau or department or any officer or member thereof, and pending business in any way pertaining to the powers and duties of such office, board, commission, bureau, or department abolished by this chapter, shall be delivered and transferred to the administrative and executive head of the department, the council, district board, state board, or state officer to which his or its powers and duties are transferred. In case such powers and duties are divided between two or more departments, councils, district boards, state boards, committees, or state officers, each shall receive such books, papers, maps, charts, plans, records, other equipment and property, and pending business as pertain to the powers and duties transferred to that department, council, district board, state board, or officer. In all cases where any question shall arise as to the proper custody of any such books, papers, maps, charts, plans, records, other equipment and property, and pending business, the governor shall settle the dispute.

All parties to such transfer are hereby directed to cooperate to the extent that the changeover shall be accomplished in the best interest of education and the people served by such state board, department, council, or district board. [1969 ex.s. c 223 § 28B.50.610. Prior: 1967 ex.s. c 8 § 61. Formerly RCW 28.85.610.]

28B.50.640 Transfer of records, equipment or property and pending business of abolished agencies or agencies whose powers and duties transferred—Contracts and obligations saved—To be performed by successor agencies. All existing contracts and obligations of the officers, boards, commissions, bureaus, departments, common school district boards, abolished by this chapter, or the powers and duties of which are vested in, and required to be performed by, an existing or newly created department, council, board, district board, or a state officer, shall remain in full force and effect, and shall be performed by the respective departments, council, board, district board, or state officers to which the powers and duties of such existing office, board, commission, bureau, department or district board are transferred. [1969 ex.s. c 223 § 28B.50.640. Prior: 1967 ex.s. c 8 § 64. Formerly RCW 28.85.640.]

28B.50.660 Transfer of records, equipment or property and pending business of abolished agencies or agencies whose powers and duties transferred—Agency duty to provide information or services to other state agency. In all cases where by this chapter power is vested in a department or officer to inspect, examine, secure data or information from or procure assistance from, another department or officer, it shall be the duty of such other department or officer to submit to such inspection or examination, and to furnish the data, information, or assistance required. [1969 ex.s. c 223 § 28B.50.660. Prior: 1967 ex.s. c 8 § 66. Formerly RCW 28.85.660.]

28B.50.740 School district bonds—Those issued for community college facilities not considered indebtedness under statutory limitations on. Notwithstanding any other statutory provision relating to indebtedness of school districts, bonds heretofore issued by any common school district for the purpose of providing funds for community college facilities shall not be considered as indebtedness in determining the maximum allowable indebtedness under any statutory limitation of indebtedness when the sum of all indebtedness therein does not exceed the maximum constitutional allowable indebtedness applied to the value of the taxable property contained in such school district: *Provided*, That nothing contained herein shall be construed to affect the distribution of state funds under any applicable distribution formula. [1969 ex.s. c 223 § 28B.50.740. Prior: 1967 ex.s. c 8 § 74. Formerly RCW 28.85.740.]

Forty mill limit: State Constitution Art. 7 § 2.

Limitation of indebtedness prescribed: RCW 39.36.020.

Limitations upon municipal indebtedness: State Constitution Art. 8 § 6.

28B.50.750 Contracts and obligations of school district for community college facilities—Completion—Duties and responsibilities relating to community colleges to continue in school districts until assumed. Until the community college district board has actually assumed the duties and responsibilities of the administration, management, or development of existing or authorized community college facilities, those duties and responsibilities shall continue to be discharged by the common school district operating or developing such community college facilities on April 3, 1967.

Where contracts have been let by the common school board pursuant to present law for the purpose of acquisition, construction, repair or modification of an existing community college facility such projects shall be completed under the administration of the common school board, superintendent of public instruction and/or the state board of education, and payments thereto shall be made from such funds as are allocated thereto. [1969 ex.s. c 223 § 28B.50.750. Prior: 1967 ex.s. c 8 § 75. Formerly RCW 28.85.750.]

28B.50.850 Faculty tenure—Purpose. It shall be the purpose of RCW 28B.50.850 through 28B.50.869 to establish a system of faculty tenure which protects the concepts of faculty employment rights and faculty

involvement in the protection of those rights in the state system of community colleges. RCW 28B.50.850 through 28B.50.869 shall define a reasonable and orderly process for appointment of faculty members to tenure status and the dismissal of the tenured faculty member. [1969 ex.s. c 283 § 32. Formerly RCW 28.85.850.]

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

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.

28B.50.852 Faculty tenure—Rules and regulations—Award of faculty tenure—Maximum probationary period. The appointing authority shall promulgate rules and regulations implementing RCW 28B.50.850 through 28B.50.869 and shall provide for the award of faculty tenure following a probationary period not to exceed three consecutive regular college years, excluding summer quarter: *Provided*, That tenure may be awarded at any time as may be determined by the appointing authority after it has given reasonable consideration to the recommendations of the review committee. [1969 ex.s. c 283 § 34. Formerly RCW 28.85.852.]

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

28B.50.855 Faculty tenure—Written agreement embodying terms of employment furnished faculty. The appointing authority shall provide each faculty member, immediately upon employment, with a written agreement which delineates the terms of employment including all conditions and responsibilities attached thereto. [1969 ex.s. c 283 § 35. Formerly RCW 28.85.855.]

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

28B.50.856 Faculty tenure—Evaluation of probationer by review committee—Progress report, acknowledgment of receipt—Recommendation as to tenure. The probationary faculty appointment period shall be one of continuing evaluation of a probationer by a review committee. The evaluation process shall place primary importance upon the probationer's effectiveness in his appointment. The review committee shall periodically advise each probationer, in writing, of his progress during the probationary period and receive the probationer's written acknowledgment thereof. The review committee shall at appropriate times make recommendations to the appointing authority as to whether tenure should or should not be granted to individual probationers: *Provided*, That the final decision to award or withhold tenure shall rest with the appointing authority,

after it has given reasonable consideration to the recommendations of the review committee. [1969 ex.s. c 283 § 36. Formerly RCW 28.85.856.]

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

28B.50.857 Faculty tenure—Decision not to renew probationary appointment, notice by appointing authority, when. Upon the decision not to renew a probationary faculty appointment, the appointing authority shall notify the probationer of such decision as soon as possible during the regular college year: *Provided*, That such notice may not be given subsequent to the last day of the winter quarter. [1969 ex.s. c 283 § 37. Formerly RCW 28.85.857.]

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

28B.50.860 Faculty tenure—Tenure retained upon administrative appointment—Exception. A tenured faculty member, upon appointment to an administrative appointment, except that of president, shall be allowed to retain his tenure. [1969 ex.s. c 283 § 38. Formerly RCW 28.85.860.]

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

28B.50.861 Faculty tenure—Dismissal only for sufficient cause. The tenured faculty member shall not be dismissed except for sufficient cause, nor shall a faculty member who holds a probationary faculty appointment be dismissed prior to the written terms of the appointment except for sufficient cause. [1969 ex.s. c 283 § 39. Formerly RCW 28.85.861.]

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

28B.50.862 Faculty tenure—Certain grounds constituting sufficient cause. Sufficient cause shall also include aiding and abetting or participating in: (1) Any unlawful act of violence; (2) Any unlawful act resulting in destruction of community college property; or (3) Any unlawful interference with the orderly conduct of the educational process. [1969 ex.s. c 283 § 40. Formerly RCW 28.85.862.]

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

28B.50.863 Faculty tenure—Review prior to dismissal—Scope—Recommendations of review committee. Prior to the dismissal of a tenured faculty member, or a faculty member holding an unexpired probationary faculty appointment, the case shall first be reviewed by a review committee. The review shall include testimony from all interested parties including, but not limited to, other faculty members and students. The faculty member whose case is being reviewed shall be afforded the right of cross-examination and the opportunity to defend himself. The review committee shall prepare recommendations on the action they propose be taken and submit such recommendations to the

appointing authority prior to their final action. [1969 ex.s. c 283 § 41. Formerly RCW 28.85.863.]

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

28B.50.864 Faculty tenure—Appeal from decision for dismissal—Procedure. Any faculty member dismissed pursuant to RCW 28B.50.850 through 28B.50.869 shall have a right to appeal the final decision of the appointing authority in accordance with RCW 28B.19.150 as now or hereafter amended. [1973 c 62 § 24; 1969 ex.s. c 283 § 42. Formerly RCW 28.85.864.]

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.50.867 Faculty tenure—Tenure rights upon transfer of employment to another community college. Upon transfer of employment from one community college to another community college within a district, a tenured faculty member shall have the right to retain tenure and the rights accruing thereto which he had in his previous employment: *Provided*, That upon permanent transfer of employment to another community college district a tenured faculty member shall not have the right to retain his tenure or any of the rights accruing thereto. [1969 ex.s. c 283 § 43. Formerly RCW 28.85.867.]

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

28B.50.868 Faculty tenure—Faculty members currently employed granted tenure. All employees of a community college district, except presidents, who were employed in the community college district at the effective date of chapter 283, Laws of 1969 ex. sess. and who hold or have held a faculty appointment with the community college district or its predecessor school district shall be granted tenure by their appointing authority notwithstanding any other provision of RCW 28B.50.850 through 28B.50.869. [1970 ex.s. c 5 § 4; 1969 ex.s. c 283 § 44. Formerly RCW 28.85.868.]

Reviser's note: The various provisions of chapter 283, Laws of 1969 ex. sess. became effective on several different dates. The effective date of the provisions thereof relating to tenure appears to have been midnight August 10, 1969, see preface, Laws of 1969 ex. sess., and see also 1969 ex.s. c 283 §§ 54 and 55 (uncodified).

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

28B.50.869 Faculty tenure—Review committees, composition—Selection of teaching faculty representatives, student representative. The review committees required by RCW 28B.50.850 through 28B.50.869 shall be composed of members of the administrative staff, a student representative, and the teaching faculty. The representatives of the teaching faculty shall represent a majority of the members on each review committee. The members representing the teaching faculty on each review committee shall be selected by a majority of the teaching faculty and faculty department heads acting in a body. The student representative, who shall be a full

time student, shall be chosen by the student association of the particular community college in such manner as the members thereof shall determine. [1974 ex.s. c 33 § 2; 1969 ex.s. c 283 § 45. Formerly RCW 28.85.869.]

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

28B.50.875 Laboratory services for the analyzing of samples, public agencies may contract with college for. Local law enforcement agencies or such other public agencies that shall be in need of such service may contract with any community college for laboratory services for the analyzing of samples that chemists associated with such community colleges may be able to perform under such terms and conditions as the individual community college may determine. [1969 ex.s. c 261 § 35. Formerly RCW 28.85.875.]

Severability—1969 ex.s. c 261: See note following RCW 28B.50.020.

28B.50.910 Severability—1969 ex.s. c 223. 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 223 § 28B.50.910. Prior: 1967 ex.s. c 8 § 72. Formerly RCW 28.85.910.]

Chapter 28B.52

NEGOTIATIONS BY ACADEMIC PERSONNEL— COMMUNITY COLLEGE DISTRICTS

Sections

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- 28B.52.030 Negotiation by representatives of employee organization—Authorized—Subject matter.
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- 28B.52.090 Prior agreements.
- 28B.52.100 State higher education administrative procedures act not to affect.
- 28B.52.200 Chapter's scope limited.

28B.52.010 Declaration of purpose. It is the purpose of this chapter to strengthen methods of administering employer-employee relations through the establishment of orderly methods of communication between academic employees and the community college districts by which they are employed. [1971 ex.s. c 196 § 1.]

28B.52.020 Definitions. 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.52.030 Negotiation by representatives of employee organization—Authorized—Subject matter. Representatives of an employee organization, which organization shall by secret ballot have won a majority in an election to represent the academic employees within its community college district, shall have the right, after using established administrative channels, to meet, confer and negotiate with the board of trustees of the community college district or its delegated representative(s) to communicate the considered professional judgment of the academic staff prior to the final adoption by the board of proposed community college district policies relating to, but not limited to, curriculum, textbook selection, in-service training, student teaching programs, personnel, hiring and assignment practices, leaves of absence, salaries and salary schedules and noninstructional duties. [1973 1st ex.s. c 205 § 2; 1971 ex.s. c 196 § 3.]

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

28B.52.035 Negotiations reduced to written agreements—Restrictions. At the conclusion of any negotiation processes as provided for in RCW 28B.52.030, any matter upon which the parties have reached agreement shall be reduced to writing and acted upon in a regular or special meeting of the boards of trustees, and become part of the official proceedings of said board meeting. The length of terms within any such agreement shall be for not more than three fiscal years. These agreements will not be binding upon future actions of the legislature. [1973 1st ex.s. c 205 § 4.]

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

28B.52.050 Academic employee may appear in own behalf. Nothing in this chapter shall prohibit any academic employee from appearing in his own behalf on matters relating to his employment relations with the community college district. [1971 ex.s. c 196 § 4.]

28B.52.060 Commission—Fact-finding and mediation activities. 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.52.070 Discrimination prohibited. Boards of trustees of community college districts or any administrative officer thereof shall not discriminate against academic employees or applicants for such positions because of their membership or nonmembership in employee organizations or their exercise of other rights under this chapter. [1971 ex.s. c 196 § 6.]

28B.52.080 Commission to adopt rules and regulations—Boards may request commission services. 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.

28B.52.090 Prior agreements. Nothing in this chapter shall be construed to annul or modify, or to preclude the renewal or continuation of, any lawful agreement heretofore entered into between any community college district and any representative of its employees. [1971 ex.s. c 196 § 8.]

28B.52.100 State higher education administrative procedures act not to affect. Contracts or agreements, or any provision thereof entered into between boards of trustees and employees organizations pursuant to this chapter shall not be affected by or be subject to chapter 28B.19 RCW [1971 ex.s. c 196 § 9.]

28B.52.200 Chapter's scope limited. Nothing in chapter 28B.52 RCW as now or hereafter amended shall compel either party to agree to a proposal or to make a

concession, nor shall any provision in chapter 28B.52 RCW as now or hereafter amended be construed as limiting or precluding the exercise by each community college board of trustees of any powers or duties authorized or provided to it by law unless such exercise is contrary to the terms and conditions of any lawful negotiated agreement. [1973 1st ex.s. c 205 § 6.]

Severability—1973 1st ex.s. c 205: See note following RCW 28B.52.020.

Chapter 28B.56
1972 COMMUNITY COLLEGES FACILITIES
AID—BOND ISSUE

Sections

- 28B.56.010 Purpose.
- 28B.56.020 Bonds authorized—Payment—Limitations.
- 28B.56.030 Community college capital improvements account—
Created—Deposits in—Use of funds from.
- 28B.56.040 Proceeds from bond sale—Administration and
expenditure.
- 28B.56.050 "Community college facilities" defined.
- 28B.56.060 List of projects to be funded—Planning funds, limita-
tions on.
- 28B.56.070 Referral to electorate.
- 28B.56.080 Form, terms, conditions and manner of sale and issu-
ance—Limitation.
- 28B.56.090 Anticipation notes—Authorized—Contents—
Payment.
- 28B.56.100 Community college capital improvements bond redemp-
tion fund of 1972—Created—Tax receipts in—
Use of funds from.
- 28B.56.110 Legislature may provide additional means of revenue.
- 28B.56.120 Bonds as legal investment for state and municipal corpo-
ration funds.

28B.56.010 Purpose. The community colleges of the state of Washington have more than doubled their enrollment since 1966, including a three hundred percent increase in occupational education. The capital fund resources of the state community college system are not adequate to meet the facility needs of today's students. Major increments of community college facilities will be needed to serve the still growing numbers of commuting youth and adults attending the community college system. A determination of the facility needs of each college has been made through the uniform application of guidelines developed by the state board for community college education to evaluate facility needs. [1972 ex.s. c 133 § 1.]

Legislative direction—1972 ex.s. c 133: "Upon adoption and ratification by the people as provided for in section 7 of this act, sections 1 through 12 herein shall constitute a new chapter in Title 28B RCW." [1972 ex.s. c 133 § 13.] "section 7 of this act" is codified as RCW 28B.56.070; "sections 1 through 12" are codified in RCW 28B.56.010 through 28B.56.120.

28B.56.020 Bonds authorized—Payment—Limitations. For the purpose of providing funds for the acquisition, construction and improvement of community college facilities in this state, the state finance committee is authorized to issue, at any time prior to January 1, 1980, general obligation bonds of the state of Washington in the sum of fifty million dollars or so much thereof as may be required to finance the improvements defined in this chapter and all costs incidental thereto. These bonds shall be paid and discharged

within twenty years of the date of issuance, or within thirty years, should Article VIII of the Constitution of the state of Washington be amended to permit such longer term. No bonds authorized by this chapter shall be offered for sale without prior legislative appropriation of the proceeds of such bonds to be sold. [1972 ex.s. c 133 § 2.]

28B.56.030 Community college capital improvements account—Created—Deposits in—Use of funds from. The proceeds from the sale of bonds authorized by this chapter and any interest earned on the interim investment of such proceeds, shall be deposited in the community college capital improvements account hereby created in the general fund and shall be used exclusively for the purposes specified in this chapter and for payment of the expenses incurred in the issuance and sale of the bonds. [1972 ex.s. c 133 § 3.]

28B.56.040 Proceeds from bond sale—Administration and expenditure. The proceeds from the sale of bonds deposited in the community college capital improvements account shall be administered and expended by the state board for community college education subject to legislative appropriation. [1972 ex.s. c 133 § 4.]

28B.56.050 "Community college facilities" defined. For the purposes of this chapter, the term "community college facilities" shall mean and include, but not be limited to, vocational facilities, including capital equipment acquisition, and such other specific projects as approved and funded for planning purposes by the legislature which shall include general education classrooms, science laboratories, faculty offices, student dining facilities, library and media facilities, offices for student personnel services and administrative personnel, and all real property and interests therein, equipment, parking facilities, utilities, appurtenances and landscaping incidental to such facilities. [1972 ex.s. c 133 § 5.]

28B.56.060 List of projects to be funded—Planning funds, limitations on. If the general obligation bond issue provided within this chapter is ratified at the 1972 general election, then the state board for community college education shall submit to the governor for the 1973 legislature, a list of projects to be funded during the six-year capital program for 1973-79. Included within the project description may be the amount of necessary planning funds per project not to exceed one percent of the project cost which shall be appropriated from the general fund directly for planning purposes and shall not be derived from the proceeds of the bond issue as provided by this chapter. [1972 ex.s. c 133 § 6.]

Reviser's note: "If the general obligation bond issue provided within this chapter is ratified at the 1972 general election", see note following RCW 28B.56.070.

28B.56.070 Referral to electorate. This chapter shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in

this state on the Tuesday next succeeding the first Monday in November, 1972, in accordance with the provisions of section 3, Article VIII of the Constitution of the state of Washington, and in accordance with the provisions of section 1, Article II of the Constitution of the state of Washington, as amended, and the laws adopted to facilitate the operation thereof. [1972 ex.s. c 133 § 7.]

Reviser's note: Chapter 28B.56 RCW was adopted and ratified by the people at the November 7, 1972 general election (Referendum Bill No. 31). Governor's proclamation declaring approval of measure is dated December 7, 1972.

28B.56.080 Form, terms, conditions and manner of sale and issuance—Limitation. The state finance committee is authorized to prescribe the form, terms, conditions and covenants of the bonds, the time or times of sale of all or any portion of them, and the conditions and manner of their sale and issuance. None of the bonds herein authorized shall be sold for less than their par value. [1972 ex.s. c 133 § 8.]

28B.56.090 Anticipation notes—Authorized—Contents—Payment. When the state finance committee has decided to issue such bonds or a portion thereof, it may, pending the issuing of such bonds, issue, in the name of the state, temporary notes in anticipation of the money to be derived from the sale of such bonds, which notes shall be designated as "anticipation notes". Such portion of the proceeds of the sale of such bonds as may be required for such purpose shall be applied to the payment of the principal of and interest on such anticipation notes which have been issued. The bonds and notes shall pledge the full faith and credit of the state of Washington and shall contain an unconditional promise to pay the principal and interest when due. The state finance committee may authorize the use of a printed facsimile of the seal of the state of Washington in the issuance of bonds and notes. [1972 ex.s. c 133 § 9.]

28B.56.100 Community college capital improvements bond redemption fund of 1972—Created—Tax receipts in—Use of funds from. The community college capital improvements bond redemption fund of 1972 is created in the state treasury. This fund shall be exclusively devoted to the payment of interest on and retirement of the bonds authorized by this chapter. The state finance committee shall, on or before June 30 of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet bond retirement and interest requirements, and on July 1 of each year, the state treasurer shall deposit such amount in the community college capital improvements bond redemption fund of 1972 from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be retail sales tax collections. Such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of the bonds or the trustee for any of the bonds may by mandamus or other

appropriate proceeding require the transfer and payment of funds as directed herein. [1972 ex.s. c 133 § 10.]

28B.56.110 Legislature may provide additional means of revenue. The legislature may provide additional means for raising moneys for the payment of the principal and interest of the bonds authorized herein, and this chapter shall not be deemed to provide an exclusive method for such payment. [1972 ex.s. c 133 § 11.]

28B.56.120 Bonds as legal investment for state and municipal corporation funds. The bonds herein authorized shall be a legal investment for all state funds or for funds under state control and for all funds of municipal corporations. [1972 ex.s. c 133 § 12.]

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.59

1976 COMMUNITY COLLEGE CAPITAL PROJECTS BOND ACT

Sections

- 28B.59.010 Purpose—"Community college capital projects" defined.
- 28B.59.020 Amount of general obligation bonds authorized.
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- 28B.59.080 Bonds as legal investment for public funds.
- 28B.59.090 Prerequisite to bond issuance.

28B.59.010 Purpose—"Community college capital projects" defined. 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. [1975-'76 2nd ex.s. c 107 § 1.]

Severability—1975-'76 2nd ex.s. c 107: "If any provision of this 1976 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-'76 2nd ex.s. c 107 § 11.] This applies to RCW 28B.59.010, 28B.59.020, 28B.59.030, 28B.59.040, 28B.59.050, 28B.59.060, 28B.59.070, 28B.59.080 and 28B.59.090.

28B.59.020 Amount of general obligation bonds authorized. For the purpose of financing the community college capital projects as determined by the legislature in its capital appropriation act, chapter 133, Laws of 1975-'76 2nd 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 twenty-six million four hundred eighty-seven 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-'76 2nd ex.s. c 107 § 2.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.030 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 of and redemption premium, if any, 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-'76 2nd ex.s. c 107 § 3.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.040 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.59.030, 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-'76 2nd ex.s. c 107 § 4.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.050 Administration of the 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-'76 2nd ex.s. c 107 § 5.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.060 Payment of the 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 the 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-'76 2nd ex.s. c 107 § 6.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.070 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-'76 2nd ex.s. c 107 § 7.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.080 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-'76 2nd ex.s. c 107 § 8.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

28B.59.090 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.59.070, during the life of the bonds proposed to be issued. [1976-'76 2nd ex.s. c 107 § 9.]

Severability—1975-'76 2nd ex.s. c 107: See note following RCW 28B.59.010.

Chapter 28B.60 COMMUNITY COLLEGE DEVELOPMENT DISTRICTS

Sections

- 28B.60.010 Authorized—Qualifications.
- 28B.60.020 Benefits recognized as proper for assessment purposes.
- 28B.60.030 Title holders necessary to propose district organization—Powers upon organization.
- 28B.60.040 Purposes for district organization and maintenance.
- 28B.60.050 Petition to organize—Contents—Bond for costs—Presentation of petition, notice of—Investigation and report by community college official.
- 28B.60.055 Hearing on petition and determination—District boundaries, name—Election on, notice of.
- 28B.60.060 Election procedure—Generally.
- 28B.60.070 Election procedure—Majority of electors casting ballots decide issues.
- 28B.60.080 Election procedure—Persons entitled to vote—Opening of registration books prior to election—Evidence of title of and oath of eligible elector—Auditor to conduct election, receive compensation.
- 28B.60.090 Duration of district—Election to continue or abolish, procedure, notice of.
- 28B.60.100 Directors of community college district as development district directors—Powers and duties.
- 28B.60.110 Special assessment, limitations on—Collection—Excess levy authorization, election on, procedure.
- 28B.60.120 Chapter not to change status of community college district nor allow agreements preventing change in boundaries of any such district.

Community college act of 1967 (and community colleges generally): Chapter 28B.50 RCW.

28B.60.010 Authorized—Qualifications. Any area served by a community college district which also contains extensive buildings, facilities and property suitable for meeting the needs of the district, which are available to the district because of the closure of a major United

States Air Force base formerly used by the strategic air command of the United States Air Force, shall be eligible to become a community college development district (hereinafter in this chapter referred to as "development district" or "district"). [1969 ex.s. c 223 § 28B.60.010. Prior: 1967 c 103 § 2. Formerly RCW 28.86.010.]

28B.60.020 Benefits recognized as proper for assessment purposes. Education has long been recognized as a means of advancing not only the cultural standards of the community, but also to raise the economic standards as well. The development of community college facilities located within a reasonable distance of the lands of the development district and designed to meet the economic needs of the development district, has a direct economic benefit to property values of such district, as well as to the people living within the district. Because the philosophy of the community college is directly geared to meet the needs of the community and because of the aforesaid special benefit to property, it is proper to allow the area served by the development district to provide some of the funds needed for development and operation through assessments on property located within the district by means of the petitioning and voting procedures described in this chapter. [1969 ex.s. c 223 § 28B.60.020. Prior: 1967 c 103 § 3. Formerly RCW 28.86.020.]

28B.60.030 Title holders necessary to propose district organization—Powers upon organization. Whenever fifty of the holders of title to, or of evidence of title to land that could be benefited by the services and facilities, training and information that could be supplied by a development district, desire to organize a development district for any or all of the purposes mentioned in chapter 28B.50 RCW, they may propose the organization of a community college development district in the manner provided herein; and when so organized such district shall have all the powers that may now or hereafter be conferred by law. [1969 ex.s. c 223 § 28B.60.030. Prior: 1967 c 103 § 4. Formerly RCW 28.86.030.]

28B.60.040 Purposes for district organization and maintenance. A development district may be organized or maintained for any or all of the following purposes:

(1) To provide funds to help enable any community college located within the district to develop and operate buildings, facilities and property acquired from the United States of America when the federal government has closed down a major United States Air Force base formerly operated by the strategic air command.

(2) The performance of all things necessary to enable the district to exercise the powers herein expressly or impliedly granted. [1969 ex.s. c 223 § 28B.60.040. Prior: 1967 c 103 § 5. Formerly RCW 28.86.040.]

28B.60.050 Petition to organize—Contents—Bond for costs—Presentation of petition, notice of—Investigation and report by community college official. For the purpose of organizing a development district, a petition, signed by the required number of holders of title or evidence of title to land within the proposed district shall be presented to the board of

county commissioners of the county in which the proposed district or the greater portion thereof, is situated, which petition shall contain the following:

(1) A description of the lands to be included in the operation of the district, in legal subdivisions or fractions thereof, and the name of the county or counties in which said lands are situated.

(2) The signature and post office address of each petitioner, together with the legal description of the particular lands within the proposed district owned by said respective petitioners.

(3) A general statement of the probable location of the community college facilities, either existing or planned, and a brief outline of the plan of improvements contemplated by the organization of the district.

(4) A statement of the number of directors, either three or five, desired for the administration of the district and of the name by which the petitioners desire the district to be designated.

(5) Any other matter deemed material.

(6) A prayer requesting the board to take the steps necessary to organize the district.

The petition must be accompanied by a good and sufficient bond, to be approved by the board of county commissioners, in double the amount of the probable cost of organizing the district, and conditioned that the bondsmen will pay all of the costs in case such organization shall not be effected. Said petition shall be presented at a regular meeting of the said board, or at any special meeting ordered to consider and act upon said petition, and shall be published at least once a week during the three weeks (three issues) before the time at which the same is to be presented, in some newspaper of general circulation printed and published in the county or counties where said petition is to be presented, together with a notice signed by the clerk of the board of county commissioners stating the time of the meeting at which the same will be presented. The board shall, in addition to publishing as provided herein, cause a copy of the notice to be mailed to the address for each parcel of property located within the district as set forth in the property rolls of each county treasurer's office servicing land within the district. However, failure to receive actual notice shall not exempt any land or property from being included in the district.

In the event that the boundaries of the contemplated development district lie within more than one county, the petition shall be presented in the same manner before the board of county commissioners of each county and the procedures for notice and publication prescribed for one county shall be followed in each county. However, the time of hearing shall be arranged so that the county commissioners from the county which has the smallest area of the proposed district may attend the hearing in the other county, if they should so desire. The said notice, together with a map of the district, shall also be served by registered mail at least thirty days before the said hearing upon the chief educational officer for community colleges at Olympia, Washington, who shall, at the expense of the district in case it is later organized, otherwise at the expense of the petitioners' bondsmen, make such investigation of the proposed plans of the

community college development district as he may deem necessary, and file a report of his findings together with a statement of his costs, with the board of county commissioners at or prior to the time or times set for said hearing or hearings. [1969 ex.s. c 223 § 28B.60.050. Prior: 1967 c 103 § 6, part. Formerly RCW 28.86.050, part.]

28B.60.055 Hearing on petition and determination—District boundaries, name—Election on, notice of. When the petition is presented, the board of county commissioners of the county containing the largest area of the proposed district shall hear the same, shall receive such evidence as it may deem material, and may adjourn such hearing from time to time, not exceeding four weeks in all, and on the final hearing shall, if it deems it advisable, establish and define the boundaries of the district along such lines as in the judgment of the board will best benefit the lands involved and enter an order to that effect: *Provided*, That no lands shall be included in the district which in the judgment of the board will not be benefited. At said final hearing, the board shall also give the district a name and shall order that an election be held therein for the purpose of determining whether or not the district shall be organized under the provisions of this chapter, and for the purpose of electing directors.

The clerk of the board of county commissioners shall then give notice of the election ordered to be held as aforesaid, which notice shall describe the district boundaries as established, and shall give the name by which said proposed district has been designated, and shall state the purposes and objects of said election, and shall be published once a week during the three weeks (three issues) prior to said election, in a newspaper of general circulation published in the county or counties where the petition aforesaid was presented; and if any portion of said proposed district lies within another county or counties, then said notice shall be published by the clerk of each board of county commissioners in a newspaper within each of said counties. Said election notice shall also require the electors to cast ballots which shall contain the words "Community College Development District—Yes", and "Community College Development District—No", and also the names of persons to be voted for as directors of the district: *Provided*, That where in this chapter publication is required to be made in a newspaper of any county, the same may be made in a newspaper of general circulation in such county, selected by the person or body charged with making the publication and such newspaper shall be the official paper for such purpose. After the district boundaries have been established by the board of county commissioners, the commissioners shall, in addition to publishing as provided herein, cause a copy of the notice to be mailed to the address for each parcel of property located within the proposed district as set forth in the property rolls of each county treasurer's office servicing land within the district. However, failure to receive actual notice shall not exempt any land or property from being included in the district. [1969 ex.s. c 223 § 28B.60.055. Prior: 1967 c 103 § 6, part. Formerly RCW 28.86.050, part.]

28B.60.060 Election procedure—Generally. All elections on the question of organizing development districts, whether general or special, for any district purpose and in any county of the state, shall be called, noticed, and conducted in accordance with the laws of the state relating to the elections of the boards of county commissioners except that the specific requirements as to electors in RCW 28B.60.080 shall determine who shall be eligible to vote.

If the proposed district boundaries lie in more than one county, the majority of county commissioners in each county may call for a joint election, and thereafter the election shall be called, noticed and conducted and the votes canvassed, jointly. [1969 ex.s. c 223 § 28B.60-.060. Prior: 1967 c 103 § 7. Formerly RCW 28.86.060.]

28B.60.070 Election procedure—Majority of electors casting ballots decide issues. Any question as to the formation of a district, or the election of directors, or any other question brought up for a vote, shall be decided by a majority vote of the electors actually casting their ballots at the time of the election. [1969 ex.s. c 223 § 28B.60.070. Prior: 1967 c 103 § 8. Formerly RCW 28.86.070.]

28B.60.080 Election procedure—Persons entitled to vote—Opening of registration books prior to election—Evidence of title of and oath of eligible elector—Auditor to conduct election, receive compensation. Only owners of real property shall be entitled to vote. The owner shall be deemed to be the person who has, or is acquiring title to real property located in the district, and who would be required to pay any assessments levied, to avoid losing his title to the property. Owners of property shall be entitled to register with the county auditor of the county or counties having land included in the petition for organization, or, for later voting, shall have land within the district. The county auditor or auditors shall open the registration books sixty days prior to the date of any election called by the county commissioners, or later, by the directors of the district, once the district is formed. The county auditor or auditors shall keep the registration books open during regular business hours for a period of thirty days and close said books at least twenty-eight days prior to the date of the election. Each person registering as an elector eligible to vote in any district election shall bring some evidence of title of land owned, and including a description of the property owned. The county auditor shall note the name and land described and cause the person registering to sign an oath that he has, or is, acquiring title to said described real estate and is entitled to vote thereon. The county auditor shall be entitled to rely on the sworn information provided, without checking the chain of title. The person so registering shall be entitled to vote at the election called for the organization of a development district. A like registration shall be held at any future election called for such purpose. The county auditor shall conduct any such election and shall be given reasonable compensation for his, or their, services by the bondsmen, or the district, if

it is formed. [1969 ex.s. c 223 § 28B.60.080. Prior: 1967 c 103 § 10. Formerly RCW 28.86.080.]

28B.60.090 Duration of district—Election to continue or abolish, procedure, notice of. The development district shall continue for four years if voted into existence by a majority of the electors in the proposed boundaries. After four years, the county auditors in the county or counties who conducted the first election shall call and conduct new elections and shall give notice by publishing and mailing a notice of election as was done for the original election. If a majority of the electors then vote against continuance of the district, the district shall be abolished. If a majority of the electors vote for continued existence of the district, the district shall continue indefinitely with all of its rights, duties, and powers, unless abolished at an election called, noticed, and conducted as the organizational election. [1969 ex.s. c 223 § 28B.60.090. Prior: 1967 c 103 § 9. Formerly RCW 28.86.090.]

28B.60.100 Directors of community college district as development district directors—Powers and duties. The directors of the development district shall be the same as the directors of any community college district which may be formed within all or any part of the land included in the development district. The directors shall retain all prior rights and authority heretofore granted to them, or hereafter granted to them, as directors of the community college district, under any law of the state of Washington now passed, or passed in the future. The directors of the development district shall also have the authority to build, repair, improve, replace, and operate any buildings, facilities or equipment located on land acquired from the United States government and which had formerly been used as a United States Air Force base by the strategic air command of the United States Air Force. In particular, the directors shall be enabled to use said buildings, property, and facilities, for classrooms, dormitories, eating facilities, and any other purpose suitable for carrying out the development district's program. [1969 ex.s. c 223 § 28B.60.100. Prior: 1967 c 103 § 11. Formerly RCW 28.86.100.]

28B.60.110 Special assessment, limitations on—Collection—Excess levy authorization, election on, procedure. The directors of the development district shall be empowered to specially assess land located in the district for the benefits thereto, taking as a base the last equalized assessment for county purposes: *Provided*, That such assessment shall not exceed one mill upon said assessed valuation without securing authorization by vote of the electors of the district in an election held for that purpose. The directors shall give notice of such an election, for the time and in the manner and form provided, for development district elections. The manner of conducting the voting at such an election, opening and closing the polls, canvassing the votes, certifying the returns, and declaring the results, shall be the same as the elections for the board of county commissioners, except as specifically modified by law.

The special assessment provided for herein shall be due and payable at such time and in such amounts as designated by the district directors, which designation shall be made to the county auditor in writing, and the amount so designated shall be added to the general taxes and entered upon the assessment rolls in his office and collected therewith. [1969 ex.s. c 223 § 28B.60.110. Prior: 1967 c 103 § 12. Formerly RCW 28.86.110.]

28B.60.120 Chapter not to change status of community college district nor allow agreements preventing change in boundaries of any such district. Nothing in this chapter shall be construed as causing a community college district to become a taxing district or a municipal corporation, and nothing herein shall be construed to allow any contractual agreements which would prevent any change in the boundaries of any community college district. [1969 ex.s. c 223 § 28B.60.120. Prior: 1967 c 103 § 14. Formerly RCW 28.86.120.]

Chapter 28B.70 WESTERN REGIONAL HIGHER EDUCATION COMPACT

Sections

- 28B.70.010 Ratification of compact.
- 28B.70.020 Terms and provisions of compact.
- 28B.70.030 Formal ratification.
- 28B.70.040 Appointment, removal of commissioners.
- 28B.70.050 Nonresident tuition fees—Exemption.

Council to coordinate state participation within student exchange compact programs: RCW 28B.80.150–28B.80.170.

28B.70.010 Ratification of compact. The western regional higher education compact, recommended by the western governors' conference on November 10, 1950, for adoption by the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii, is hereby ratified and approved and the adherence of this state to the provisions of this compact, upon its ratification and approval by any four or more of such states or territories in addition to this state, is hereby declared. [1969 ex.s. c 223 § 28B.70.010. Prior: 1955 c 214 § 1. Formerly RCW 28.82.010.]

28B.70.020 Terms and provisions of compact. The terms and provisions of the compact referred to in RCW 28B.70.010 are as follows:

WESTERN REGIONAL HIGHER EDUCATION COMPACT

Article I

WHEREAS, The future of this Nation and of the Western States is dependent upon the quality of the education of its youth; and

WHEREAS, Many of the Western States individually do not have sufficient numbers of potential students to warrant the establishment and maintenance within their borders of adequate facilities in all the essential fields of technical, professional and graduate training, nor do all of the states have the financial ability to furnish within their borders institutions capable of providing acceptable

standards of training in all of the fields mentioned above; and

WHEREAS, It is believed that the Western States, or group of such states within the Region, cooperatively can provide acceptable and efficient educational facilities to meet the needs of the Region and of the students thereof;

NOW, THEREFORE, The States of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming, and the Territories of Alaska and Hawaii, do hereby covenant and agree as follows:

Article II

Each of the compacting states and territories pledge to each of the other compacting states and territories faithful cooperation in carrying out all the purposes of this compact.

Article III

The compacting states and territories hereby create the Western Interstate Commission for Higher Education, hereinafter called the Commission. Said Commission shall be a body corporate of each compacting state and territory and an agency thereof. The Commission shall have all the powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states and territories.

Article IV

The Commission shall consist of three resident members from each compacting state or territory. At all times one commissioner from each compacting state or territory shall be an educator engaged in the field of higher education in the state or territory from which he is appointed.

The commissioners from each state and territory shall be appointed by the governor thereof as provided by law in such state or territory. Any commissioner may be removed or suspended from office as provided by the law of the state or territory from which he shall have been appointed.

The term of each commissioner shall be four years: *Provided, however,* That the first three commissioners shall be appointed as follows: one for two years, one for three years, and one for four years. Each commissioner shall hold office until his successor shall be appointed and qualified. If any office becomes vacant for any reason, the governor shall appoint a commissioner to fill the office for the remainder of the unexpired term.

Article V

Any business transacted at any meeting of the Commission must be by affirmative vote of a majority of the whole number of compacting states and territories.

One or more commissioners from a majority of the compacting states and territories shall constitute a quorum for the transaction of business.

Each compacting state and territory represented at any meeting of the Commission is entitled to one vote.

Article VI

The Commission shall elect from its number a chairman and a vice-chairman, and may appoint, and at its pleasure dismiss or remove, such officers, agents and employees as may be required to carry out the purpose of this compact; and shall fix and determine their duties, qualifications and compensation, having due regard for the importance of the responsibilities involved.

The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the Commission.

Article VII

The Commission shall adopt a seal and bylaws and shall adopt and promulgate rules and regulations for its management and control.

The Commission may elect such committees as it deems necessary for the carrying out of its functions.

The Commission shall establish and maintain an office within one of the compacting states for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call such additional meetings and upon the request of a majority of the commissioners of three or more compacting states or territories shall call additional meetings.

The Commission shall submit a budget to the governor of each compacting state and territory at such time and for such period as may be required.

The Commission shall, after negotiations with interested institutions, determine the cost of providing the facilities for graduate and professional education for use in its contractual agreements throughout the Region.

On or before the fifteenth day of January of each year, the Commission shall submit to the governors and legislatures of the compacting states and territories a report of its activities for the preceding calendar year.

The Commission shall keep accurate books of account, showing in full its receipts and disbursements, and said books of account shall be open at any reasonable time for inspection by the governor of any compacting state or territory or his designated representative. The Commission shall not be subject to the audit and accounting procedure of any of the compacting states or territories. The Commission shall provide for an independent annual audit.

Article VIII

It shall be the duty of the Commission to enter into such contractual agreements with any institutions in the Region offering graduate or professional education and with any of the compacting states or territories as may be required in the judgment of the Commission to provide adequate services and facilities of graduate and professional education for the citizens of the respective compacting states or territories. The Commission shall first endeavor to provide adequate services and facilities in the fields of dentistry, medicine, public health and veterinary medicine, and may undertake similar activities in other professional and graduate fields.

For this purpose the Commission may enter into contractual agreements

(a) with the governing authority of any educational institution in the Region, or with any compacting state or territory to provide such graduate or professional educational services upon terms and conditions to be agreed upon between contracting parties and

(b) with the governing authority of any educational institution in the Region or with any compacting state or territory to assist in the placement of graduate or professional students in educational institutions in the Region providing the desired services and facilities, upon such terms and conditions as the Commission may prescribe.

It shall be the duty of the Commission to undertake studies of needs for professional and graduate educational facilities in the Region, the resources of meeting such needs, and the long-range effects of the compact on higher education; and from time to time prepare comprehensive reports on such research for presentation to the Western Governors' Conference and to the legislatures of the compacting states and territories. In conducting such studies, the Commission may confer with any national or regional planning body which may be established. The Commission shall draft and recommend to the governors of the various compacting states and territories, uniform legislation dealing with problems of higher education in the Region.

For the purposes of this compact the word "Region" shall be construed to mean the geographical limits of the several compacting states and territories.

Article IX

The operating costs of the Commission shall be apportioned equally among the compacting states and territories.

Article X

This compact shall become operative and binding immediately as to those states and territories adopting it whenever five or more of the states or territories of Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming, Alaska and Hawaii have duly adopted it prior to July 1, 1955. This compact shall become effective as to any additional states or territories thereafter at the time of such adoption.

Article XI

This compact may be terminated at any time by consent of a majority of the compacting states or territories. Consent shall be manifested by passage and signature in the usual manner of legislation expressing such consent by the legislature and governor of such terminating state. Any state or territory may at any time withdraw from this compact by means of appropriate legislation to that end. Such withdrawal shall not become effective until two years after written notice thereof by the governor of the withdrawing state or territory accompanied by a certified copy of the requisite legislative action is received by the Commission. Such withdrawal shall not relieve the withdrawing state or territory from its obligations hereunder accruing prior to the effective date of withdrawal. The withdrawing state or territory may

rescind its action of withdrawal at any time within the two-year period. Thereafter the withdrawing state or territory may be reinstated by application to and the approval by a majority vote of the Commission.

Article XII

If any compacting state or territory shall at any time default in the performance of any of its obligations assumed or imposed in accordance with the provisions of this compact, all rights, privileges and benefits conferred by this compact or agreements hereunder, shall be suspended from the effective date of such default as fixed by the commission.

Unless such default shall be remedied within a period of two years following the effective date of such default, this compact may be terminated with respect to such defaulting state or territory by affirmative vote of three-fourths of the other member states or territories.

Any such defaulting state may be reinstated by (a) performing all acts and obligations upon which it has heretofore defaulted, and (b) application to and the approval by a majority vote of the Commission. [1969 ex.s. c 223 § 28B.70.020. Prior: 1955 c 214 § 2. Formerly RCW 28.82.020.]

28B.70.030 Formal ratification. Upon ratification and approval of the western regional higher education compact by any four or more of the specified states or territories in addition to this state, the governor of this state is authorized and directed to execute said compact on behalf of this state and to perform any other acts which may be deemed requisite to its formal ratification and promulgation. [1969 ex.s. c 223 § 28B.70.030. Prior: 1955 c 214 § 3. Formerly RCW 28.82.030.]

28B.70.040 Appointment, removal of commissioners.

(1) The governor, with the advice and consent of the senate, shall appoint the members, for this state, of the Western Interstate Commission for Higher Education, which is created under the provisions of Article III of the western regional higher education compact.

(2) The qualifications and terms of office of the members of the commission for this state shall conform with the provisions of Article IV of said compact.

(3) The commissioners shall serve without compensation and they shall be reimbursed for their actual and necessary expenses by the Western Interstate Commission for Higher Education.

(4) The governor may remove a member of the commission in conformity with the provisions of RCW 43.06.070, 43.06.080 and 43.06.090. [1969 ex.s. c 223 § 28B.70.040. Prior: 1955 c 214 § 4. Formerly RCW 28.82.040.]

28B.70.050 Nonresident tuition fees—Exemption.

When said compact becomes operative the governing board of each institution of higher learning in this state, to the extent necessary to conform with the terms of the contractual agreement, may exempt from payment of tuition fees established by law for nonresident students any student admitted to such institution under the terms

of a contractual agreement entered into with the commission in accord with the provisions of Article VIII(a) of the compact. [1969 ex.s. c 223 § 28B.70.050. Prior: 1955 c 214 § 5. Formerly RCW 28.82.050.]

Chapter 28B.80

COUNCIL FOR POSTSECONDARY EDUCATION IN THE STATE OF WASHINGTON

(Formerly: Council on higher education in the state of Washington)

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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.80.050 Voting power limited to citizen members. The nine citizen members of the council alone shall have the right to vote and decide by a simple majority all matters coming before the council. The other members of the council shall have voice but no voting power. [1969 ex.s. c 277 § 5. Formerly RCW 28.89.050.]

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.80.070 Members—Filling vacancies. Any vacancies among the citizen members appointed by the governor shall be filled by the governor subject to confirmation by the senate then in session, or if not in session, at the next session. Citizen members appointed under this section shall have full authority to act as such prior to the time the senate acts on their confirmation. Any vacancies among the other members shall be filled by the appointing authority which initially filled the position. [1969 ex.s. c 277 § 7. Formerly RCW 28.89.070.]

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.80.090 Council meetings, notice of—Quorum.

The council shall meet at least four times each year and at such other times as determined by the chairman who shall give reasonable notice to members of every meeting prior thereto. A majority of the citizen members shall constitute a quorum to conduct the affairs of the council. [1969 ex.s. c 277 § 10. Formerly RCW 28.89.090.]

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.80.110 Members—Travel expenses.

Members of the council will receive travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 77; 1969 ex.s. c 277 § 12. Formerly RCW 28.89.110.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

28B.80.120 Federal funds, private gifts or grants.

The council, in addition to any funds appropriated or allocated from time to time to carry out the purposes of this chapter, may add thereto federal funds made available to the state for higher education research or otherwise under the terms of any act or acts of congress, or any private gifts or grants, such federal funds or private funds to be expended in accordance with the conditions contingent in such grant thereof. [1969 ex.s. c 277 § 13. Formerly RCW 28.89.120.]

28B.80.130 Council as clearinghouse for technological education—Scope. In addition to the functions delegated to the council by RCW 28B.80.030, the council is hereby specifically directed to be the clearinghouse for technological education, with responsibilities for compilation and distribution of information to support:

- (1) Career guidance information of all programs and levels of technology;
- (2) Assistance in curriculum development;
- (3) Coordination of long-range technological planning; and
- (4) Assistance in maximizing federal and other non-state funding grants for program development in technology.

The council shall not duplicate the efforts of the coordinating council for occupational education which shall serve as the clearinghouse source for the compilation of all information for technological programs under the state plan for vocational education.

The council shall incorporate within its long-range planning consideration of the delivery systems of advanced technological programs, the need for new or additional programs, and their proper organizational location. [1974 ex.s. c 4 § 1.]

Severability—1974 ex.s. c 4: "If any provision of this 1973 [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 4 § 6.] This applies to RCW 28B.80.130, 28B.80.140, 28B.80.150, 28B.80.160 and 28B.80.170.

28B.80.140 Special advisory council on technological education—Representation on—Duties.

A special advisory council on technological education shall be appointed by the council. It shall assist in the initial establishment and direction of the clearinghouse for technological education and be available to provide consultation to the council in its continuing study of technological education. Such advisory council should contain representation from industry and labor, as well as representation from the post-secondary agencies conducting technological programs. [1974 ex.s. c 4 § 2.]

Severability—1974 ex.s. c 4: See note following RCW 28B.80.130.

28B.80.150 Council to coordinate state participation within student exchange compact programs—Designate certifying officer.

In addition to the functions delegated to the council by RCW 28B.80.030, the council is hereby specifically directed to develop such state plans as are necessary to coordinate the state of Washington's participation within the student exchange compact programs under the auspices of the Western Interstate Commission for Higher Education, as provided by chapter 28B.70 RCW. In addition to establishing such plans the council shall designate the state certifying officer for student programs. [1974 ex.s. c 4 § 3.]

Severability—1974 ex.s. c 4: See note following RCW 28B.80.130.

28B.80.160 Council to coordinate state participation within student exchange compact programs—Criteria.

In the development of any such plans as called for within RCW 28B.80.150, the council shall use at least the following criteria:

- (1) Students who are eligible to attend compact-authorized programs in other states shall meet the Washington residency requirements of chapter 28B.15 RCW prior to being awarded tuition assistance grants;
- (2) If appropriations are insufficient to fund all students qualifying under subsection (1) hereof, then the plans shall include criteria for student selection that would be in the best interest in meeting the state's educational needs, as well as recognizing the financial needs of students. [1974 ex.s. c 4 § 4.]

Severability—1974 ex.s. c 4: See note following RCW 28B.80.130.

28B.80.170 Council to coordinate state participation within student exchange compact programs—Advice to governor, legislature. The council shall periodically

advise the governor and the legislature of the policy implications of the state of Washington's participation in the Western Interstate Commission for Higher Education student exchange programs as they affect long-range planning for post-secondary education, together with recommendations on the most efficient way to provide high cost or special educational programs to Washington residents. [1974 ex.s. c 4 § 5.]

Severability—1974 ex.s. c 4: See note following RCW 28B.80.130.

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.

28B.80.910 Severability—1969 ex.s. c 277. 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. [1969 ex.s. c 277 § 15. Formerly RCW 28.89.910.]

Chapter 28B.81 COMMISSION ON HIGHER EDUCATION

Sections
28B.81.090 Travel expenses.

28B.81.090 Travel expenses. Members of the commission will receive travel expenses in accordance with

RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 78; 1969 ex.s. c 263 § 9. Formerly RCW 28.90.180.]

Reviser's note: The amendment of this section by 1975-'76 2nd ex.s. c 34 does not take cognizance of the section's repeal by 1975 1st ex.s. c 132 § 11.

Chapter 28B.98 CONSTRUCTION

Sections

- 28B.98.010 Repeals and savings.
 28B.98.011 Repeal—1970 ex.s. c 16.
 28B.98.020 Moneys transferred.
 28B.98.030 Continuation of existing law.
 28B.98.040 Provisions to be construed in pari materia.
 28B.98.050 Title, chapter, section headings not part of law.
 28B.98.060 Invalidity of part of title not to affect remainder.
 28B.98.070 This code defined.
 28B.98.080 Effective date—1969 ex.s. c 223.

28B.98.010 Repeals and savings. The following acts or parts of acts are each repealed:

- (1) Chapter 14, Laws of 1967;
- (2) Sections 2, 3, and 5 through 17, chapter 47, Laws of 1967;
- (3) Chapter 103, Laws of 1967;
- (4) Section 2, chapter 135, Laws of 1967;
- (5) Section 4, chapter 151, Laws of 1967;
- (6) Chapter 231, Laws of 1967;
- (7) Chapter 5, Laws of 1967 extraordinary session;
- (8) Sections 1 through 26, 30 through 40, 44, 50, 52 through 72, 74, 75, and 77 through 79, chapter 8, Laws of 1967 extraordinary session;
- (9) Chapter 58, Laws of 1967 extraordinary session;
- (10) Chapter 107, Laws of 1967 extraordinary session;
- (11) Section 2, chapter 54, Laws of 1965;
- (12) Chapter 76, Laws of 1965;
- (13) Chapter 77, Laws of 1965;
- (14) Section 23, chapter 139, Laws of 1965;
- (15) Chapter 16, Laws of 1965 extraordinary session;
- (16) Section 1, chapter 89, Laws of 1965 extraordinary session;
- (17) Chapter 128, Laws of 1965 extraordinary session;
- (18) Sections 1, and 3 through 6, chapter 135, Laws of 1965 extraordinary session;
- (19) Chapter 139, Laws of 1965 extraordinary session;
- (20) Section 1, chapter 146, Laws of 1965 extraordinary session;
- (21) Chapter 147, Laws of 1965 extraordinary session;
- (22) Chapter 23, Laws of 1963;
- (23) Chapter 33, Laws of 1963;
- (24) Chapter 71, Laws of 1963;
- (25) Section 1, chapter 89, Laws of 1963;
- (26) Chapter 109, Laws of 1963;
- (27) Chapter 143, Laws of 1963;
- (28) Sections 1, and 3 through 10, chapter 151, Laws of 1963;
- (29) Chapter 167, Laws of 1963;
- (30) Chapter 180, Laws of 1963;

- (31) Chapter 181, Laws of 1963;
- (32) Chapter 182, Laws of 1963;
- (33) Chapter 193, Laws of 1963;
- (34) Chapter 216, Laws of 1963;
- (35) Chapter 224, Laws of 1963;
- (36) Sections 5, 12, and 14, chapter 2, Laws of 1963 extraordinary session;
- (37) Chapter 25, Laws of 1961;
- (38) Chapter 62, Laws of 1961;
- (39) Chapter 71, Laws of 1961;
- (40) Section 5, chapter 198, Laws of 1961;
- (41) Chapter 202, Laws of 1961;
- (42) Sections 1 through 9, chapter 229, Laws of 1961;
- (43) Chapter 10, Laws of 1961 extraordinary session;
- (44) Sections 1 and 2, chapter 11, Laws of 1961 extraordinary session;
- (45) Chapter 12, Laws of 1961 extraordinary session;
- (46) Chapter 13, Laws of 1961 extraordinary session;
- (47) Chapter 14, Laws of 1961 extraordinary session;
- (48) Section 1, chapter 20, Laws of 1961 extraordinary session;
- (49) Chapter 77, Laws of 1959;
- (50) Chapter 96, Laws of 1959;
- (51) Chapter 155, Laws of 1959;
- (52) Chapter 164, Laws of 1959;
- (53) Chapter 186, Laws of 1959;
- (54) Chapter 187, Laws of 1959;
- (55) Chapter 191, Laws of 1959;
- (56) Chapter 193, Laws of 1959;
- (57) Chapter 76, Laws of 1957;
- (58) Chapter 147, Laws of 1957;
- (59) Chapter 212, Laws of 1957;
- (60) Chapter 254, Laws of 1957;
- (61) Chapter 256, Laws of 1957;
- (62) Chapter 66, Laws of 1955;
- (63) Chapter 123, Laws of 1955;
- (64) Chapter 175, Laws of 1955;
- (65) Chapter 214, Laws of 1955;
- (66) Chapter 229, Laws of 1955;
- (67) Chapter 346, Laws of 1955;
- (68) Chapter 69, Laws of 1953;
- (69) Chapter 101, Laws of 1953;
- (70) Chapter 97, Laws of 1951;
- (71) Sections 1, 2, and 4, chapter 34, Laws of 1949;
- (72) Chapter 55, Laws of 1949;
- (73) Chapter 73, Laws of 1949;
- (74) Chapter 115, Laws of 1949;
- (75) Chapter 123, Laws of 1949;
- (76) Chapter 152, Laws of 1949;
- (77) Chapter 182, Laws of 1949;
- (78) Chapter 210, Laws of 1949;
- (79) Chapter 232, Laws of 1949;
- (80) Chapter 45, Laws of 1947;
- (81) Chapter 46, Laws of 1947;
- (82) Chapter 86, Laws of 1947;
- (83) Chapter 95, Laws of 1947;
- (84) Chapter 104, Laws of 1947;
- (85) Chapter 108, Laws of 1947;
- (86) Chapter 109, Laws of 1947;
- (87) Chapter 223, Laws of 1947;
- (88) Chapter 224, Laws of 1947;
- (89) Chapter 243, Laws of 1947;

(90) Sections 1 through 5, and 7, chapter 284, Laws of 1947;

(91) Chapter 15, Laws of 1945;

(92) Chapter 187, Laws of 1945;

(93) Chapter 236, Laws of 1945;

(94) Chapter 241, Laws of 1945;

(95) Chapter 48, Laws of 1943;

(96) Chapter 59, Laws of 1943;

(97) Chapter 262, Laws of 1943;

(98) Chapter 17, Laws of 1939;

(99) Chapter 60, Laws of 1939;

(100) Chapter 156, Laws of 1939;

(101) Chapter 176, Laws of 1939;

(102) Chapter 193, Laws of 1939;

(103) Chapter 181, Laws of 1937;

(104) Chapter 203, Laws of 1937;

(105) Chapter 223, Laws of 1937;

(106) Sections 1 and 2, chapter 154, Laws of 1935;

(107) Section 1, chapter 185, Laws of 1935;

(108) Chapter 13, Laws of 1933;

(109) Chapter 169, Laws of 1933;

(110) Chapter 48, Laws of 1931;

(111) Chapter 49, Laws of 1931;

(112) Chapter 227, Laws of 1927;

(113) Chapter 182, Laws of 1925 extraordinary session;

(114) Chapter 74, Laws of 1923;

(115) Sections 1, 2, 5, and 6, chapter 139, Laws of 1921;

(116) Section 1, chapter 163, Laws of 1921;

(117) Sections 1, 2, and 4, chapter 164, Laws of 1921;

(118) Sections 1 and 2, chapter 63, Laws of 1919;

(119) Sections 1, 3, 4, and 6 through 11, chapter 10, Laws of 1917;

(120) Section 2, chapter 11, Laws of 1917;

(121) Chapter 128, Laws of 1917;

(122) Sections 2, 3, and 8, chapter 66, Laws of 1915;

(123) Chapter 24, Laws of 1913;

(124) Chapter 33, Laws of 1909;

(125) Chapter 97, Title II, subchapters 1, 2 and 3, Laws of 1909;

(126) Chapter 248, Laws of 1909;

(127) Chapter 198, Laws of 1907;

(128) Section 1, chapter 53, Laws of 1905;

(129) Chapter 9, Laws of 1899;

(130) Sections 182 through 227, chapter 118, Laws of 1897;

(131) Section 1, chapter 145, Laws of 1891; and

(132) Sections 1 through 21, pages 395 through 399, Laws of 1889-90.

Such repeals shall not be construed as affecting any existing right acquired under the statutes repealed, nor as affecting any proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor any criminal or civil proceeding instituted thereunder, nor the term of office or election or appointment or employment of any person elected, appointed or employed thereunder. [1969 ex.s. c 223 § 28B.98.010.]

28B.98.011 Repeal—1970 ex.s. c 16. See RCW 28A.98.011.

28B.98.020 Moneys transferred. All moneys in the Southwestern Washington State College bond retirement fund and the Southwestern Washington State College capital projects account are hereby transferred to The Evergreen State College bond retirement fund and The Evergreen State College capital projects account respectively, which latter fund and account are created in RCW 28B.40.370. [1969 ex.s. c 223 § 28B.98.020.]

28B.98.030 Continuation of existing law. The provisions of this title, Title 28B RCW, insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments. Nothing in this 1969 code revision of Title 28 RCW shall be construed as authorizing any new bond issues or new or additional appropriations of moneys but the bond issue authorizations herein contained shall be construed only as continuations of bond issues authorized by prior laws herein repealed and reenacted, and the appropriations of moneys herein contained are continued herein for historical purposes only and this 1969 act shall not be construed as a reappropriation thereof and no appropriation contained herein shall be deemed to be extended or revived hereby and such appropriation shall lapse or shall have lapsed in accordance with the original enactment: *Provided*, That this 1969 act shall not operate to terminate, extend, or otherwise affect any appropriation for the biennium commencing July 1, 1967 and ending June 30, 1969. [1969 ex.s. c 223 § 28B.98.030.]

28B.98.040 Provisions to be construed in pari materia. The provisions of this title, Title 28B RCW, shall be construed in pari materia even though as a matter of prior legislative history they were not originally enacted in the same statute. The provisions of this title shall also be construed in pari materia with the provisions of Title 28A RCW, and with other laws relating to education. This section shall not operate retroactively. [1969 ex.s. c 223 § 28B.98.040.]

28B.98.050 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title, Title 28B RCW, do not constitute any part of the law. [1969 ex.s. c 223 § 28B.98.050.]

28B.98.060 Invalidity of part of title not to affect remainder. If any provision of this title, Title 28B RCW, 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. [1969 ex.s. c 223 § 28B.98.060.]

28B.98.070 This code defined. As used in this title, Title 28B RCW, "this code" means Titles 28A and 28B of this 1969 act. [1969 ex.s. c 223 § 28B.98.070.]

28B.98.080 Effective date—1969 ex.s. c 223. This act shall take effect on July 1, 1970. [1969 ex.s. c 223 § 28B.98.080.]

TITLE 28C

VOCATIONAL EDUCATION

Chapters

28C.04 1975 Vocational education act.

Chapter 28C.04 1975 VOCATIONAL EDUCATION ACT

Sections

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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.04.020, 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, travel expenses. Members of the commission will receive travel

expenses in accordance with RCW 43.03.050 and 43.03-.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 79; 1975 1st ex.s. c 174 § 8.]

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

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—Compensation and travel 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 twenty-five dollars for each day or portion thereof spent in serving as a member of the advisory council and their travel expenses while engaged in the business of the advisory council in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1975-'76 2nd ex.s. c 34 § 76; 1969 ex.s. c 283 § 52. Formerly RCW 28.85.245, 28B.50.245.]

Reviser's note: 1975-'76 2nd ex.s. c 34 § 76 amended RCW 28B.50.245, which, pursuant to 1975 1st ex.s. c 174 § 17, had been decodified, and recodified above as RCW 28C.04.300.

Effective date—Severability—1975-'76 2nd ex.s. c 34: See notes following RCW 2.08.115.

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; the employment security department; the state library, 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-'76 2nd ex.s. c 86 § 1; 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.

Legislative directive—1975-'76 2nd ex.s. c 86: "It is the intent of the legislature that the governor instruct the office of program planning and fiscal management to carry out the recommendations of the governor's report of January 1, 1976, to the standing ways and means committees of the house and senate, filed with the office of the speaker of the house of representatives and the office of the president of the senate, with regard to the staffing level of the commission for vocational education pursuant to section 81(2), chapter 269, Laws of 1975 1st ex. sess. The office of program planning and fiscal management is hereby directed to make the necessary transfers and abolishments of staff and appropriated funds to effect these recommendations not later than September 30, 1976." [1975-'76 2nd ex.s. c 86 § 2.]

Effective date—1975-'76 2nd ex.s. c 86: "This 1976 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 March 1, 1976." [1975-'76 2nd ex.s. c 86 § 3.] This applies to RCW 28C.04.510 and to the "Legislative directive" [1975-'76 2nd ex.s. c 86 § 2] set forth above.

Effective date—Severability—1975 1st ex.s. c 174: See notes following RCW 28C.04.010.

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1976 Edition

CERTIFICATE

The 1976 edition of the Revised Code of Washington, published officially by the Statute Law Committee, is, in accordance with the provisions of RCW 1.08.037, certified to comply with the current specifications of the committee.

(signed)

**Robert L. Charette, Chairman,
STATUTE LAW COMMITTEE**

NOTES